

RICHLAND COUNTY
COUNTY COUNCIL AGENDA



Tuesday, FEBRUARY 16, 2021

6:00 PM

ZOOM MEETING

RICHLAND COUNTY COUNCIL 2021



Bill Malinowski
District 1
2018-2022



Derrek Pugh
District 2
2020-2024



Yvonne McBride
District 3
2020-2024



Paul Livingston
District 4
2018-2022



Allison Terracio
District 5
2018-2022



Joe Walker III
District 6
2018-2022



Gretchen Barron
District 7
2020-2024



Overture Walker
District 8
2020-2024



Jessica Mackey
District 9
2020-2024



Cheryl English
District 10
2020-2024



Chakisse Newton
District 11
2018-2022





Richland County Council

Regular Session
February 16, 2021 - 6:00 PM
Zoom Meeting
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 Chakisse Newton
3. **PLEDGE OF ALLEGIANCE**

The Honorable Chakisse Newton
4. **PRESENTATIONS**
 - a. COMET Highlights
John Andoh, Executive Director/CEO
5. **APPROVAL OF MINUTES**

The Honorable Paul Livingston

 - a. Special Called Meeting: February 9, 2021 [**PAGES 9-18**]
6. **ADOPTION OF AGENDA**

The Honorable Paul Livingston
7. **REPORT OF THE ACTING COUNTY ATTORNEY
FOR EXECUTIVE SESSION ITEMS**

Elizabeth McLean,
Acting County Attorney

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

Leonardo Brown,
County Administrator

- a. CAFR Presentation
- b. 911 Call Center Agreement

11. REPORT OF THE INTERIM CLERK OF COUNCIL

Michelle Onley,
Interim Clerk of Council

12. REPORT OF THE CHAIR

13. OPEN / CLOSE PUBLIC HEARINGS

The Honorable Paul Livingston

- a. 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 Cross to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

14. APPROVAL OF CONSENT ITEMS

The Honorable Paul Livingston

- a. 20-037 MA
Brian K. Smith
HI to GC (7.3 acres)
Farrow Road and Clemson Road
TMS# R17400-04-04 [THIRD READING] [PAGES 19-20]

15. THIRD READING ITEMS

The Honorable Paul Livingston

- a. 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 Cross to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [PAGES 21-59]

16. SECOND READING ITEMS

The Honorable Paul Livingston

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with

Fairfield County to include certain property located in Richland County; the execution and delivery of an infrastructure credit agreement to provide for infrastructure credits to [Project Centrum]; and other related matters [PAGES 60-81]

- b. Authorizing the first amendment to the master agreement governing the Forest Acres Business Park between Richland County and Fairfield County; authorizing the first amendment to intergovernmental agreement between Richland County and the City of Forest Acres; and other related matters [PAGES 82-93]

17. REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

- a. Authorizing the execution and delivery of an assignment by Tyson Prepared Foods, Inc. ("TPF") of a 2017 fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and TPF to Project Charlie; the execution and delivery of an assignment by TPF to Project Charlie of a 1996 fee-in-lieu of taxes agreement in the form of a lease agreement by and between Richland County, South Carolina and TPF; the execution and delivery of an amendment to the 2017 fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and TPF; and other related matters [FIRST READING] [PAGES 94-108]
- b. Approving the declaration of covenants, conditions and restrictions for the Blythewood Business Park; and other related matters [PAGES 109-131]

18. REPORT OF RULES & APPOINTMENTS COMMITTEE

The Honorable Bill Malinowski

- a. NOTIFICATION OF VACANCIES
 - 1. a. Accommodations Tax – Five (5) Vacancies (ONE applicant must have a background in the lodging industry, THREE applicants must have a background in the hospitality industry, and ONE applicant will fill an At-large seat)
 - b. Airport Commission (Hamilton-Owens) – Three (3) Vacancies (One applicant must reside within the Rosewood, Shandon, or Hollywood-Rose Hill-Wales Garden neighborhoods)
 - c. Board of Assessment Appeals – One (1) Vacancy
 - d. Board of Zoning Appeals – One (1) Vacancy

- e. Building Codes Board of Appeals – Six (6) Vacancies (ONE applicant must be from the Architecture Industry, ONE from the GAS Industry, ONE from the Building Industry, ONE from the Contracting Industry & TWO from Fire Industry as alternates)
- f. Business Service Center – Four (4) Vacancies (TWO applicants must be from the Business Industry and TWO applicants must be a CPA)
- g. Central Midlands Council of Governments – Five (5) Vacancies
- h. Community Relations Council – Eight (8) Vacancies
- i. East Richland Public Service Commission – Two (2) Vacancies
- j. Employee Grievance Committee – Six (6) Vacancies (MUST be a Richland County employee; 2 seats are alternates)
- k. Hospitality Tax – Five (5) Vacancies (TWO applicants must be from the Restaurant Industry)
- l. Internal Audit Committee – Two (2) Vacancies (applicant with CPA preferred)
- m. Lexington Richland Alcohol Drug Abuse Council – One (1) Vacancy
- n. Music Festival – Two (2) Vacancies
- o. Planning Commission - Three (3) Vacancies
- p.. Procurement Review Panel – Two (2) Vacancies – (One applicant must be from the public procurement arena & one applicant must be from the consumer industry)
- q. Richland Library Board of Trustees – One (1) Vacancy
- r. Richland Memorial Hospital Board of Trustees – Two (2) Vacancies
- s. River Alliance – One (1) Vacancy
- t. Riverbanks Park Commission – One (1) Vacancy
- u. Transportation Penny Advisory Committee (TPAC) – Five (5) Vacancies

b. NOTIFICATION OF APPOINTMENTS

- 1. Lexington Richland Alcohol and Drug Abuse Council (LRADAC) - 2
 - a. Harold (Harry) C. Ward [**PAGES 132-133**]
 - b. Marvin E. Robinson, Jr. [**PAGES 134-135**]

c. Andrew (Andy) R. Tolleson [PAGES 136-137]

d. Michelle Drayton [PAGES 138-139]

2. Midlands Workforce Development Board - 2 (Private Sector)

1. Maranta White [PAGES 140-141]

2. Sheena Thompson [PAGES 142-143]

19. OTHER ITEMS

The Honorable Paul Livingston

- a. Move to remit the \$300,000 private donation (negotiated by Councilwoman Dalhi Myers and Councilman Chip Jackson) earmarked for the Taylors Community to Richland County Parks & Recreation under an IGA, to be designated as funding for the Taylor's Community Park, promised and fully funded, as part of an Economic Development plan for the Reign Community on Shop Road before December 31, 2020. These funds were donated beginning in 2017 prior to the construction of the 2,000 bed new Reign Community, which is now complete. RC staff has not begun planning or construction on the fully funded park. [PAGES 144-179]

20. EXECUTIVE SESSION

Elizabeth McLean,
Acting County Attorney

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

21. MOTION PERIOD

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
February 9, 2021 – 6:00PM
Zoom Meeting
2020 Hampton Street, Columbia, SC 29201

COMMITTEE MEMBERS PRESENT: Paul Livingston Chair, Yvonne McBride, Bill Malinowski, Derrek Pugh, Allison Terracio, Joe Walker, Gretchen Barron, Overture E. Walker, Jesica Mackey, Cheryl English, and Chakisse Newton.

OTHERS PRESENT: Michelle Onley, Angela Weathersby, Kyle Holsclaw, Tamar Black, Leonardo Brown, Ashiya Myers, Ashley Powell, Clayton Voignier, Randy Pruitt, Sandra Haynes, Stacey Hamm, Dwight Hanna, Brian Crooks, Jennifer Wladischkin, Michael Niermeier, Lori Thomas, Mike Zaprzalka, Elizabeth McLean, Dale Welch, James Haynes, Ronaldo Myers, Lauren Hogan, Jeff Ruble, John Thompson, Dante Roberts, Michael Byrd, Britteny Hoyle-Terry and Judy Carter

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00PM.
2. **INVOCATION** – The Invocation was led by the Honorable Bill Malinowski
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Bill Malinowski
4. **APPROVAL OF MINUTES**
 - a. **Regular Session: December 15, 2020** – Ms. Terracio moved, seconded by Mr. Malinowski, to approve the minutes as distributed.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, and Newton

Present but Not Voting: McBride

The vote in favor was unanimous.

- b. **Zoning Public Hearing: December 17, 2020** – Mr. J. Walker moved, seconded by Mr. Malinowski, to approve items 4(b) and 4(c) as distributed.

Mr. Malinowski noted on page 33 where it indicates “present but not voting” he would like his vote to be recorded as a “no” vote, as he was having technical difficulties during this portion of the meeting.

Ms. Onley answered in the affirmative.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, and Newton

Present but Not Voting: McBride

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February 9, 2021**

The vote in favor was unanimous.

- c. Special Called Meeting: December 17, 2020 – Approved with previous motion.
- d. Special Called Meeting: December 29, 2020 – Mr. O. Walker moved, seconded by Mr. J. Walker, to approve the minutes as distributed.

In Favor: Malinowski, Pugh, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, and Newton

Present but Not Voting: McBride

The vote in favor was unanimous.

- e. Special Called Meeting: January 5, 2021 – Mr. O. Walker moved, seconded by Mr. J. Walker, to approve the minutes as distributed.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, and Newton

The vote in favor was unanimous.

- 5. **ADOPTION OF AGENDA** – Ms. Terracio moved, seconded by Ms. Mackey, to adopt the agenda as published.

Mr. Malinowski noted he does not believe Item 17(a) is properly before Council because the motion was indicated the item was supposed to come back at the next regularly scheduled meeting, and this is a Special Called meeting. He requested the be placed on the February 16th meeting agenda

In Favor: Malinowski, Pugh, McBride. Livingston, Terracio, J. Walker. Barron, O. Walker, Mackey, English, and Newton.

The vote in favor was unanimous.

- 6. **REPORT OF THE ACTING COUNTY ATTORNEY FOR EXECUTIVE SESSIN ITEMS** – Ms. McLean stated the following items qualify for Executive Session:

- a. Receipt of Legal Advice: Coggins vs. Seals and Richland County
- b. Personnel Matter: Request from Gary Watts RE: Retiree Health Insurance

Mr. Livingston noted he intended to remove Item 11(a) Request from Gary Watts: RE: Retiree Health Insurance from the agenda.

Mr. O. Walker moved, seconded by Ms. Mackey, to go into Executive Session.

In Favor: Pugh, McBride, Livingston, Barron, O. Walker, Mackey, and English

Opposed: Malinowski, Terracio, J. Walker, and Newton

The vote was in favor.

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***Council went into Executive Session at approximately 6:14 PM
and came out at approximately 7:47 PM***

Mr. J Walker moved, seconded by Ms. Terracio, to come out of Executive Session.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron. O. Walker, Mackey, English, and Newton

Ms. Terracio moved, seconded by Mr. J. Walker, to instruct the attorney to proceed as discussed in Executive Session regarding a public hearing and to bring back a response by the first Council Meeting in March.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, Newton

The vote in favor was unanimous.

Mr. Malinowski stated he wanted the attorney to bring forward information as to why it was stated, when the Gerald Seals matter was taking place, the courts stated Council took a vote in Executive Session, which is not accurate. He would like the details on that, so Council, and if need be, the public can be provided. He noted Council has never taken a vote in Executive Session.

7. **CITIZEN'S INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing - No one signed up to speak

8. **CITIZEN'S INPUT**

- 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.) - No one signed up to speak.

9. **REPORT OF THE COUNTY ADMINSTARTOR**

- a. Coronavirus Update - Mr. Brown stated included in the agenda packet is documentation associated with his report. DHEC has updated how they are calculating the positive percentage in Richland County. They went from the process they were using to using positive tests over a total combined number of positive and negative tests times 100 to get the percent positive. When they changed the structure of how they were calculating that, we were averaging upwards of 30+ percentage points. However, once they made that change, which aligns more with the federal alignment, the numbers went down. It does not change the community spread value, but from a statistical standpoint, it changed the percent positive number. If you were to look at our percent positive now, compared to what it looked like before around December/January, we were still averaging upwards of 20+ percentage positivity. Now according to the State, we are down to around 10% for the State, and even lower in Richland County. He noted that a few of the Councilmembers had various events. Councilwoman Barron had an event at the James Clyburn Technology Center, which was a combination mask giveaway and senior sign up for the COVID-19 vaccine.

Ms. Barron stated she visited the Booker Heights Community and Forest Height Community. The

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Community gave away bags for Senior Citizens, and inquired if we had masks to giveaway. We were able to contribute to their senior bags. While there, several seniors drove up with questions about registering for the COVID-19 vaccination, and she was able to register approximately 13 people.

Mr. Brown noted that District 2 has several scheduled COVID-19 testing events, which are currently on the County's website, was included in the County's newsletter, and it is also in the agenda packet. Those events are scheduled through April and are hosted on the 2nd Saturday of each month in Blythewood and the last Saturday of every month in St. Andrews. Mr. Brown stated the County continues its partnership with Prisma Health. They are using the Sear facility to conduct free testing for citizens. Additionally, he included information about the COVID-19 rollout. We have been getting a lot of questions from our Employees, as well as others, about Richland County's abilities to effect the vaccination rollout. He noted Richland County, as an agency, does not have jurisdiction over the COVID-19 vaccine rollout. Those phases that are included in the rollout are phases communicated by DHEC to the agencies in Richland County. The majority of Richland County's staff would fall in the 1C phase. We are looking at a vaccine rollout later in the year, unless DHEC or the Governor's Office escalates that or moves it up sooner. He wanted to make it clear, to the extent that Richland County has control over this process, it is really the sharing of information, and not us being able to dictate when individuals are vaccinated.

Mr. Livingston stated, based on feedback from his colleagues, we may need to hold a Coronavirus Ad Hoc committee meeting to address some questions.

Mr. Malinowski stated he received both shots and he cannot say enough positive things about Prisma Health, Richland County's Sheriff Department, the National Guard, and the University of South Carolina for the process that they have working for getting these vaccines out.

- b. Emergency Rental Assistance (ERA) Program Update – Ms. Barron inquired about the Emergency Rental Assistance program. She was aware that Mr. Brown stated we are still trying to find out the details, but she inquired if we have a timeframe for that.

Mr. Brown responded Richland County did apply and receive an allocation of funding related to the Emergency Rental Assistance Program. He noted the amount was a little over \$12 million dollars. Right now, the consultant, as well as the staff members that are working on that project are looking to meet this week to talk about the details. We are also looking to meet with the Coronavirus Ad Hoc committee in the coming weeks, so we can discuss how we are going to set up the program associated with these funds.

- c. 2020-2021 Retreat Follow-up
 - 1. State of the County Memorandum - Mr. Brown noted memo included in the agenda packet, contains the information he verbally briefed Council on during the Retreat.

10. **REPORT OF THE INTERIM CLERK OF COUNCIL**

- a. Recognition from US Census Bureau for 2020 Census Partnership – Ms. Onley stated the County received a thank you certificate from the US Census Bureau honoring their partnership with the 2020 Census.

11. **REPORT OF THE CHAIR**

- a. Request from Gary Watts Re: Retiree Health Insurance – Mr. Livingston stated after speaking with

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staff, Human Resources, and a few Council members, he requested to remove this item from the agenda.

Ms. McBride moved, seconded by Ms. Terracio moved, to remove this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English, and Newton

Present but Not Voting: J. Walker

The vote in favor was unanimous.

- b. Equity Index Study – Mr. Livingston stated he received some information from the City of Columbia regarding an effort to do an equity index study. The study will deal with an analysis of our demographic information that will be helpful when dealing with various racial equity situations in the County. He noted Spartanburg has done this and encouraged Council to look at their report and the data it provided. He stated the reason the request came from the City was because they are trying to get five or six groups so the cost of the study will be reasonable. The cost for the County would be \$2,000. Mr. Livingston’s recommendation would be that the Administrator looks at this study. If the Administrator believes the study will be beneficial, he has the authority to undertake the study on the County’s behalf.

Ms. McBride moved, seconded by Ms. Terracio, to approve the Chair’s recommendation.

Ms. Terracio inquired if Mr. Livingston knew who the other entities were.

Mr. Livingston responded he did not, but he would have Mr. Brown to follow-up.

Ms. Barron stated she thinks this study is needed, but she thinks we need to do our due diligence with getting more information on who the other players are, the agency in which we are using, etc. Even though it seems like a small amount of money, we still want to be good stewards over the funds.

Ms. McBride stated this study would be good, but at the same time, as she has mentioned over the years, we need to look at the equity issue with our procurement, in terms of all our contracts, and even in hiring for Richland County. She hopes the equity index study will not be a substitute for what we as Richland County had already planned to do.

Mr. Livingston responded that is was a component of that study.

Mr. Brown responded this would not replace the County’s efforts concerning the issues addressed by Ms. McBride.

Ms. Newton stated, for clarification, we are instructing the Administrator to do his due diligence about the study, and proceed if he sees fit.

Mr. Livingston responded in the affirmative.

Ms. Newton offered a friendly amendment, in the event Richland County does participate in the Equity Index Study, the Administrator comes back to Council with recommendations as to how the information gleaned from the study might affect County programs or policies.

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In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, Newton

The vote in favor was unanimous.

12. OPEN/CLOSE PUBLIC HEARINGS

- a. An Ordinance Amending the Fiscal Year 2021 Economic Development Fund Annual Budget by \$2,829,714 to amend the Economic Development Budget for property acquisition – No comments were received.
- b. An Ordinance Amending the Fiscal Year 2021 General Fund Annual Budget by \$2,829,714 to amend the Economic Development Budget for property acquisition - No comments were received.

13. APPROVAL OF CONSENT ITEMS

- a. 20-037 MA Brian K. Smith HI to GC (7.3 acres) Farrow Road and Clemson Road TMS# R17400-04-04 – Ms. Terracio moved, seconded by Mr. J. Walker, to approve this item.

Ms. Terracio inquired about which district the re-zoning is in.

Mr. Livingston responded that this was in district 7.

Ms. Barron stated she wanted to formally go on record to say the process for this project had already started prior to her coming on Council, but she has spoken to her colleagues that govern in the Northeast area, and they are concerned about the congestion. As we move forward, they would like to look towards smart growth, and not just moving to approve.

Mr. Malinowski noted Councilwoman Barron could defer this item to obtain additional information.

Ms. Barron thanked Mr. Malinowski and stated she has been brought up to speed on this issue.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, Newton.

The vote in favor was unanimous.

14. THIRD READING ITEMS

- a. An Ordinance Amending the Fiscal Year 2021 Economic Development Fund Annual Budget by \$2,829,714 to amend the Economic Development Budget for property acquisition – Mr. J. Walker moved, seconded by Mr. Malinowski, to approve Items 14(a) and 14(b).

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, Newton

The vote in favor was unanimous.

Mr. Walker moved, seconded by Mr. Malinowski, to reconsider Items 14(a) and 14(b).

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Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, and Newton.

The motion for reconsideration failed.

- b. An Ordinance Amending the Fiscal Year 2021 General Fund Annual Budget by \$2,829,714 to amend the Economic Development Budget for property acquisition – Approved in previous motion.

15. REPORT OF THE DEVELOPMENT AND SERVICES COMMITTEE

- a. Move that Richland County discontinue its practice of demolishing private property in the unincorporated areas of Richland County where that property is not on a public road without that property owner's consent and opportunity to be heard by Richland County council, and I further move that any and all such involuntary demolitions be incurred at the County's expense and not the property owner's expense. [MYERS] – Ms. Terracio stated the committee recommended Council approve staff's recommendation to continuing with current implementation and enforcement procedures that comply with the International Property Maintenance Code (IPMC). She noted no motion would be required since the recommendation is to maintain the current policy and practices.

Mr. Malinowski stated he is not sure a vote is not required because they have choices provided to on p. 63 of the agenda packet, when adopting the IPMC. He noted that on p. 64, when it talks about a structure, it does not give a definition to what a structure is. It says a structure that is found unfit for human occupancy can be condemned. He noted there are many structures in our unincorporated areas that are not meant to be for human occupancy.

Mr. Malinowski made a substitute to “Amend the County Code of Ordinances to adopt the IPMC code in part, with the exception of the administrative and enforcement sections (Sections 103-112), and add the desired administrative and enforcement procedures to be used in conjunction with the remainder of the adopted IPMC”. The motion died for lack of a second.

16. REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of an infrastructure credit agreement to provide for infrastructure credits to [Project Centrum]; and other related matters [FIRST READING] – Mr. Livingston stated the committee recommended approved of this item.

In Favor: McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, and Newton

Opposed: Malinowski and Pugh

The vote was in favor.

- b. Authorizing the first amendment to the master agreement governing the Forest Acres Business Park between Richland County and Fairfield County; authorizing the first amendment to intergovernmental agreement between Richland County and the City of Forest Acres; and other related matters [FIRST READING] – Mr. Livingston stated the committee recommended approval of this item.

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Mr. Malinowski stated he was going to be voting “no” because he spoke with Director Ruble and he was supposed to provide Mr. Malinowski some information, and he has not received it.

In Favor: Pugh, McBride, Livingston, Terracio, J. Walker, Barron, O. Walker, Mackey, English, and Newton

Opposed: Malinowski

The vote was in favor.

17.

OTHER ITEMS

- a. Move to remit the \$300,000 private donation (negotiated by Councilwoman Dalhi Myers and Councilman Chip Jackson) earmarked for the Taylors Community to Richland County Parks & Recreation under an IGA, to be designated as funding for the Taylor's Community Park, promised and fully funded, as part of an Economic Development plan for the Reign Community on Shop Road before December 31, 2020. These funds were donated beginning in 2017 prior to the construction of the 2,000 bed new Reign Community, which is now complete. RC staff has not begun planning or construction on the fully funded park - This item was removed during the Adoption of the Agenda.
- b. FY20 - District 7 Hospitality Tax Allocation – Ms. Barron moved, seconded by Ms. Terracio, to approve this item

Ms. McBride stated at the last Council Meeting she voted to defer this item to ensure Councilwoman Barron had the opportunity to look at the hospitality tax allocations. She requested Ms. Barron’s input on what Council needs to do with the item.

Ms. Barron responded she had the opportunity to review the request. She believes the H-Tax funds need to go out into the community, and we need to streamline the process by which they are distributed. In addition, the frequency in which organizations get funding.

Ms. McBride inquired if Councilwoman Barron had an issue funding this item.

Ms. Barron responded she did not.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English, and Newton.

Opposed: J. Walker

The vote was in favor.

Ms. Newton moved, seconded by Ms. Barron, to reconsider this item.

In Favor: J. Walker

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, O. Walker, English, Mackey, and Newton.

The motion for reconsideration failed.

- c. An Ordinance extending ordinances 17-20HR, 041-20HR and 055-20HR requiring the wearing of face masks to help alleviate the spread of COVID 19 – Ms. McBride moved, seconded by Ms. Terracio, to approve this item

Mr. Walker inquired if anything has changed with the enforcement agency with this extension, or is it still incumbent upon the Fire Marshal to enforce this ordinance.

Mr. Brown stated there is not any additional enforcement mechanisms.

In Favor: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English, and Newton.

Opposed: Malinowski, J. Walker.

The vote was in favor.

18. **EXECUTIVE SESSION** – There were no items for Executive Session.

19. **MOTION PERIOD**

- a. Approval of proposed letter in opposition of SC Senate Bill I – Ms. Terracio stated while the letter before us may not be something her colleagues feel they should weigh in on, she wanted to make a statement about the effects these types of Bills will have on the constituents of Richland County. She knows people have different feelings on this issue, but the Bill will not only effect the citizens of the County who can become pregnant, as well as their families, it will directly affect Richland County in ways you may not have considered. For instance, the County has an interest in Prisma Health and ensuring the citizens here have access to healthcare. This Bill would discourage doctors from coming into the State and County, and encourage them to leave because their ability to practice evidence-based medicine would be diminished. Richland County has an interest in economic development and she's been told over and over again about how important it is that businesses come and stay here. We need people to work at these businesses, and they need to choose to stay here or to move here, as her family did. Bills like this do not attract businesses and they do not retain talent. It will come as no surprise to anyone that she opposes this Bill. If others feel this would hard their constituents, and the interest of Richland, she would welcome support for her letter.

Mr. Livingston stated he could forward this to a committee, but inquired as to when this Bill will come up.

Ms. Terracio responded the Bill has been moving quickly, so sometime next week or so.

Mr. Livingston stated it will be a couple weeks before we have a committee meeting.

Ms. McBride stated she fully supports her efforts. She suggested doing a proclamation and have the Council members supporting the effort to sign off on it.

Ms. Terracio stated she could have something prepared and circulated to anyone that wants to sign off on it.

Mr. O. Walker and Ms. English voiced their support of the proclamation and a woman's right to choose.

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Mr. Livingston stated this is the motion period and discussion is not normally permitted. He encouraged Ms. Terracio to seek other options since this Bill is moving quickly and all he can do is send it to committee.

20. **ADJOURNMENT** – Mr. J Walker moved, seconded by Mr. Malinowski, to adjourn.

Ms. McBride requested a Point of Personal Privilege.

POINT OF ORDER: Mr. J Walker noted he moved for adjournment before Ms. McBride requested a Point of Personal Privilege.

In Favor: Malinowski, Pugh, J. Walker

Opposed: McBride, Livingston, Terracio, Barron, Mackey, English, and Newton.

Present not voting: O. Walker

The motion for adjournment failed.

POINT OF PERSONAL PRIVILEGE: Ms. McBride extended her sincere thanks to all her colleagues, Administrator and staff for their acts of kindness and thoughtfulness extended to her and her family in the passing of her sister former Councilwoman Thelma Tillis. All of the calls, cards, flowers, and emails meant so much to them and her family truly appreciated everything. She wanted to particularly thank Mr. Livingston for taking the time to speak on behalf of his relationship with her sister and County Council at the funeral. She also thanked Ms. English for her prayers.

The meeting adjourned at approximately 8:42PM

Richland County Council Request for Action

Subject:

20-037 MA
Brian K. Smith
HI to GC (7.3 acres)
Farrow Road and Clemson Road
TMS# R17400-04-04

Notes:

First Reading: December 17, 2020
Second Reading: February 9, 2021
Third Reading: February 16, 2021 {Tentative}
Public Hearing: December 17, 2020

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-21HR

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 # 17400-04-04 FROM HEAVY INDUSTRIAL DISTRICT (HI) TO GENERAL COMMERCIAL DISTRICT (GC); 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 # 17400-04-04 from Heavy Industrial District (HI) to General Commercial District (GC).

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 _____, 2021.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2021.

Michelle M. Onley
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: December 17, 2020
First Reading: December 17, 2020
Second Reading: February 9, 2021
Third Reading: February 16, 2021

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 Cross to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

Notes:

First Reading: November 17, 2020

Second Reading: December 8, 2020

Third Reading: February 16, 2021 {Tentative}

Public Hearing: February 16, 2021

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 CROSS TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.

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

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

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

WHEREAS, Project Cross (“Sponsor”) desires to expand its existing facilities in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$60,315,000 and the creation of 702 new, full-time jobs; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement with the 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 (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; and (2) locating certain portions of the Project in the Park (to the extent not already so included); and (3) providing Infrastructure Credits, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure; and

WHEREAS, the Sponsor is a party to that certain Infrastructure Credit Agreement with the County dated December 14, 1999, as the same was amended and restated as of December 1, 2009 (the “1999 SSRC Agreement”), pursuant to Section 3.03 of which the Sponsor is presently receiving special source revenue credits (“SSRCs”) equal to 20% of the Fee Payments (as defined therein), subject to reduction if the number of full-time employees falls below 650, and which SSRCs presently run through property tax year 2025; and

WHEREAS, the Sponsor has requested a five-year extension of the SSRCs under the 1999 SSRC Agreement such that the SSRCs shall extend through property tax year 2030; and

WHEREAS, the Sponsor is a party to that certain Lease Agreement with the County dated July 11, 2000, as the same has been amended from time to time (the “2000 Lease Agreement”), the term of which was initially 20 years for each phase of investment placed in service by the Sponsor (the “Term”) and pursuant to which the Sponsor is presently receiving SSRCs of 20% which run through property tax year 2022; and

WHEREAS, the Sponsor has requested a 10-year extension of the Term of the 2000 Lease Agreement and an extension of the SSRCs under the 2000 Lease Agreement such that the SSRCs shall extend through property tax year 2030; and

WHEREAS, the Sponsor has caused to be prepared and presented to the County that certain Amendment to 1999 SSRC Agreement and 2000 Lease Agreement to effectuate the foregoing requests, the substantially final form of which is attached as Exhibit B (the “Amendment”), and the County is agreeable to such requests and has determined that the Amendment is an appropriate instrument for the aforementioned purposes.

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

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

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

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

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

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

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

on adoption of this Ordinance by County Council and delivery of written notice to Fairfield County of the inclusion of the Project in the Park.

Section 4. *Approval of Amendment.* The Amendment is hereby approved. The form, terms and provisions of the Amendment that is before this meeting are approved and all of the Amendment's terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council ("Chair") is authorized and directed to execute the Amendment 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 Amendment and to deliver the Amendment to the Sponsor.

Section 5. *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 6. *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 7. *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 8. *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: November 17, 2020
Second Reading: December 8, 2020
Public Hearing: February 16, 2021
Third Reading: February 16, 2021

EXHIBIT A
FORM OF FEE AGREEMENT

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

BETWEEN

PROJECT CROSS

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF [FEBRUARY 16], 2021

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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 Cross]	
Project Location	2501 Faraway Drive, Columbia South Carolina 29219 2401 Faraway Drive, Columbia South Carolina 29219 4101 Percival Road, Columbia South Carolina 29219 17 Technology Circle/Farrow Road, Columbia South Carolina 29219 51 Clemson Road, Columbia South Carolina 29219 51 Clemson Road, Columbia South Carolina 29219 3060 Alpine Road, Columbia South Carolina 29219 1816 Willowby Street, Columbia South Carolina 29219 8901 Farrow Road, Columbia South Carolina 29219 7909 Parklane Road, Columbia South Carolina 29219 105 New Way Road, Columbia, South Carolina 29219 111 New Way Road, Columbia, South Carolina 29219	Exhibit A
Tax Map No.	R19809-01-01; R19708-03-01; R25600-04-12; R14400-02-06; R14400-02-08; R25600-04-19; R25600-04-17; R19810-01-06; R19707-01-03; R19708-11-01; R19707-01-04; R17200-03-12; R17101-03-04; R19809-02-04; R19810-02-04	Exhibit A
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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 [February 16, 2021] 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 Cross], a corporation organized and existing under the laws of the State of South Carolina (“*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 its existing facilities (collectively, the “*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$60,315,000 and the creation of at least 702 new, full-time jobs;

(d) By an ordinance enacted on [February 16, 2021], 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.

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

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments[, Infrastructure Credits or other incentives] provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the

Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

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

“**Commencement Date**” means the last day of the property tax year during which 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, 2020].

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$60,315,000.

“**Contract Minimum Jobs Requirement**” means not less than 702 full-time jobs created by the Sponsor in the County in connection with the Project.

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

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

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

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

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

“**Economic Development Property**” means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300T 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.

“**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, 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.

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

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

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on [December 31, 2025].

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

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

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

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

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

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

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

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

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

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

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

“**Sponsor Affiliate**” means an entity that participates in the investment [or job creation] at the Project and, following receipt of the County’s approval pursuant to Section 9.1 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" by adopting an Inducement Resolution, as defined in the Act, on November 17, 2020.

(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 Real Property comprising the Project in the Multicounty Park to the extent such Real Property is not already included.

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 corporate headquarters and service facilities and for such other purposes that the Act permits as the Sponsor may deem appropriate.

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

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

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

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

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending [December 31, 2020]. 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, 2021], the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

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

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

**ARTICLE IV
FILOT PAYMENTS**

Section 4.1. *FILOT Payments.*

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property 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 the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2020, which rates are as follows:

For all portions of the Project located in Tax District 2ER: 586.7
For all portions of the Project located in Tax District 2CC: 656.6
For all portions of the Project located in Tax District 1UR: 477.5

The Company shall file a separate Schedule PT-300T (or successor form) for the components of the Project in each of the above-referenced tax districts and shall identify the applicable tax district and

millage rate in the project description component of each filing in order to make the identification of the applicable millage rate for each separate form readily apparent to the Department and the County.

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
ADDITIONAL INCENTIVES**

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

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

**ARTICLE VI
CLAW BACK**

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

**ARTICLE VII
DEFAULT**

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

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

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a "**Cessation of Operations**" means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

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

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

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

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

Section 7.2. Remedies on Default.

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

(i) terminate this Fee Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; or

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

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

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

**ARTICLE VIII
PARTICULAR RIGHTS AND COVENANTS**

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

Section 8.2. Confidentiality. The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“**Confidential Information**”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee Agreement as “**Confidential Information.**” Except as required by law, the County, or

any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Sponsor acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Sponsor with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure, and to cooperate reasonably with any attempts by the Sponsor to obtain judicial or other relief from such disclosure requirement.

Section 8.3. *Indemnification Covenants.*

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

(b) The County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a), above. The County shall provide a statement of the costs incurred in the response or defense, and the Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any 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. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

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

Section 8.8. *Administration Expenses.* The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$6,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

ARTICLE IX SPONSOR AFFILIATES

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

Section 9.2. *Primary Responsibility.* Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor

and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, “primary responsibility” means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

**ARTICLE X
MISCELLANEOUS**

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

IF TO THE SPONSOR:

[]

WITH A COPY TO (does not constitute notice):

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

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, pandemic, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

Section 10.10. Termination; Termination by Sponsor.

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

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

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

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

2501 Faraway Drive, Columbia South Carolina 29219
(TMS No. R19809-01-01)

2401 Faraway Drive, Columbia South Carolina 29219
(TMS No. R19708-03-01)

4101 Percival Road, Columbia South Carolina 29219
(TMS No. R25600-04-12)

17 Technology Circle/Farrow Road, Columbia South Carolina 29219
(TMS Nos. R14400-02-06; R14400-02-08)

51 Clemson Road, Columbia South Carolina 29219
(TMS Nos: R25600-04-19; R25600-04-17)

3060 Alpine Road, Columbia South Carolina 29219
(TMS No: R19810-01-06)

1816 Willowby Street, Columbia South Carolina 29219
(TMS Nos: R19707-01-03; R19708-11-01; R19707-01-04)

8901 Farrow Road, Columbia South Carolina 29219
(TMS No: R17200-03-12)

7909 Parklane Road, Columbia South Carolina 29219
(TMS No: R17101-03-04)

105& 111 New Way Road, Columbia, South Carolina 29219
(TMS No: R19810-02-04)

**EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT**

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

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

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

[_____]

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

Date

Name of Entity
By: _____
Its: _____

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

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:



Clerk to County Council

EXHIBIT D (see Section 5.1)
DESCRIPTION OF INFRASTRUCTURE CREDIT

The Infrastructure Credits shall equal 20% of the FILOT Payment due for the first ten payments hereunder, which are anticipated to be the payments for property tax years 20[21] through 20[30].

EXHIBIT E (see Section 6.1)
DESCRIPTION OF CLAW BACK

Repayment Amount = Total Infrastructure Credits Received x Claw Back Percentage

Claw Back Percentage = 100% - Overall Achievement Percentage

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

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

Jobs Achievement Percentage = Actual New, Full-Time Jobs Created / Contract Minimum Jobs Requirement *[may not exceed 100%]*

In calculating the each achievement percentage, only the investment made or new jobs achieved up to the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement will be counted.

For example, and by way of example only, if the County granted \$100,000 in Infrastructure Credits, and \$54,283,500 had been invested at the Project and 561.6 jobs had been created by the end of the Investment Period, the Repayment Amount would be calculated as follows:

Jobs Achievement Percentage = 561.6/702 = 80%

Investment Achievement Percentage = \$53,077,200/\$60,315,000 = 88%

Overall Achievement Percentage = (80% + 88%)/2 = 84%

Claw Back Percentage = 100% - 84% = 16%

Repayment Amount = \$100,000 x 16% = \$16,000

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

EXHIBIT B
FORM OF AMENDMENT

AMENDMENT TO 1999 SSRC AGREEMENT AND 2000 LEASE AGREEMENT

This Amendment (the “Amendment”) to the 1999 SSRC Agreement and 2000 Lease Agreement by and between RICHLAND COUNTY, SOUTH CAROLINA (the “County”) and PROJECT CROSS (the “Company”) is made and entered into this day of _____, 2021.

WITNESSETH:

WHEREAS, the Company and the County entered into that certain Infrastructure Credit Agreement dated December 14, 1999, as the same was amended and restated as of December 1, 2009 (the “1999 SSRC Agreement”); and

WHEREAS, the Company and the County entered into that certain Lease Agreement dated July 11, 2000, as the same has been amended from time to time (the “2000 Lease Agreement”); and

WHEREAS, the Company is presently receiving special source revenue credits (“SSRCs”) equal to 20% of the Fee Payments due under the 1999 SSRC Agreement (subject to reduction if the number of full-time employees falls below 650), which SSRCs presently run through property tax year 2025, and the Company has requested an extension of the term of such SSRCs through property tax year 2030; and

WHEREAS, the term of the 2000 Lease Agreement is 20 years for each phase of investment placed in service by the Sponsor thereunder (the “Term”), and the Company has requested a ten-year extension of the Term; and

WHEREAS, the Company is presently receiving SSRCs equal to 20% of the payments in lieu of taxes due pursuant to the 2000 Lease Agreement (subject to adjustment if the Company falls short of established investment levels), which SSRCs presently run through property tax year 2022, and the Company has requested an extension of the term of such SSRCs through property tax year 2030.

WHEREAS, the Company is considering an additional investment in the County of approximately \$60,315,000 that is anticipated to create 702 new, full-time jobs in the County (the “Project”), and the Company has represented to the County that the requests set forth herein would enhance the Company’s ability to achieve the desired investment and job creation levels associated with the Project; and

WHEREAS, pursuant to an Ordinance of the County Council of even date herewith, the County Council has approved the execution of this Amendment.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Company agree as follows:

1. The term of the SSRCs under the 1999 SSRC Agreement is hereby extended through property tax year 2030.

2. The Term of the 2000 Lease Agreement is hereby extended by ten years.

3. The term of the SSRCs under the 2000 Lease Agreement is hereby extended through property tax year 2030.

Except as otherwise provided herein, the 1999 SSRC Agreement and 2000 Lease Agreement each shall remain in full force and effect, including the percentage reductions in the SSRCs if the agreed-upon job and investment levels, as applicable, are not satisfied.

IN WITNESS WHEREOF, RICHLAND COUNTY, SOUTH CAROLINA AND PROJECT CROSS, each pursuant to due authority, have executed this Amendment as of the date first written above.

RICHLAND COUNTY, SOUTH CAROLINA

Signature: _____

Name: _____

Title: _____

ATTEST:

Signature: _____

Name: _____

Title: Clerk to Richland County Council

PROJECT CROSS

Signature: _____

Name: _____

Title: _____

Richland County Council Request for Action

Subject:

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of an infrastructure credit agreement to provide for infrastructure credits to [Project Centrum]; 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 EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF AN INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR INFRASTRUCTURE CREDITS TO [PROJECT CENTRUM]; AND OTHER RELATED MATTERS.

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

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Infrastructure Credit”) 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 manufacturing facility or commercial enterprise (collectively, “Infrastructure”);

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

WHEREAS, [Project Centrum] (collectively “Company”) desires to expand manufacturing operations within the County (“Project”), consisting of taxable investments in real and personal property of not less than \$4,100,000, along with the creation of 20 new full-time jobs;

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

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

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

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

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

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

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

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

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

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

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

First Reading: February 9, 2021
Second Reading: February 16, 2021
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF AGREEMENT

INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

[PROJECT CENTRUM]

Effective as of: []

INFRASTRUCTURE CREDIT AGREEMENT

This INFRASTRUCTURE CREDIT AGREEMENT, effective as of date above stated (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and [PROJECT CENTRUM] (“Company” together with the County, “Parties,” each a “Party”).

WITNESSETH:

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

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Infrastructure Credit”) 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 (collectively, “Infrastructure”);

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

WHEREAS, the Company has committed to expand their manufacturing operations in the County (“Project”) on property more particularly identified by Exhibit A (“Land”) to include real property to be purchased prior to the Certification Date, as defined below, consisting of taxable investment in real and personal property of not less than \$4,100,000 and the creation of 20 new, full-time jobs;

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

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

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

ARTICLE I REPRESENTATIONS

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

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

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

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

ARTICLE II INFRASTRUCTURE CREDITS

Section 2.1. *Investment Commitment.* The Company shall invest not less than \$4,100,000 in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below. The Company shall certify to the County achievement of the Investment Commitment by no later than December 31, 2025 ("Certification Date"), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment. Failure by the Company to certify the Investment Commitment by the Certification Date shall be an Event of Default as provide in Article III of this Agreement.

Section 2.2. *Jobs Commitment.* The Company shall create 20 new, full-time jobs in the County ("Jobs Commitment") by the Certification Date. The Company shall certify to the County achievement of

the Jobs Commitment by providing documentation to the County sufficient to reflect achievement of the Jobs Commitment on or before the Certification Date. Failure by the Company to certify the Jobs Commitment by the Certification Date shall be an Event of Default as provided in Article III of this Agreement.

Section 2.3. Infrastructure Credits.

(a) To assist in paying for costs of Infrastructure, the County shall provide an Infrastructure Credit against certain of the Company’s Fee Payments due with respect to the Project. The term, amount and calculation of the Infrastructure Credit is described in Exhibit B.

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

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

Section 2.4. Clawback. If the Company fails to meet the Investment Commitment or Jobs Commitment by the Certification Date, then the Infrastructure Credit shall be immediately reduced prospectively by the Clawback Percentage (as calculated below) for the remainder of the Credit Term and the Company shall repay a portion of the Infrastructure Credits received.

The portion of the Infrastructure Credit to be repaid (“Repayment Amount”) is based on the amount by which the Company failed to achieve the Investment Commitment or Jobs Commitment and is calculated as follows:

$$\text{Repayment Amount} = \text{Total Received} \times \text{Clawback Percentage}$$

$$\text{Clawback Percentage} = 100\% - \text{Overall Achievement Percentage}$$

$$\text{Overall Achievement Percentage} = (\text{Investment Achievement Percentage} + \text{Jobs Achievement Percentage}) / 2$$

$$\text{Investment Achievement Percentage} = \text{Actual Investment Achieved} / \text{Investment Commitment}$$

$$\text{Jobs Achievement Percentage} = \text{Actual New, Full-Time Jobs Created} / \text{Jobs Commitment}$$

In calculating each achievement percentage, only the investment made or new jobs achieved up to the Investment Commitment and the Jobs Commitment will be counted.

For example, and by way of example only, if the Company had received \$120,000 in Infrastructure Credits, and had invested \$3,485,000 and created 17 jobs by the Certification Date, the Repayment Amount would be calculated as follows:

$$\text{Jobs Achievement Percentage} = 17/20 = 85\%$$

$$\text{Investment Achievement Percentage} = \$3,485,000/\$4,100,000 = 80\%$$

$$\text{Overall Achievement Percentage} = (85\% + 80\%)/2 = 82.5\%$$

$$\text{Clawback Percentage} = 100\% - 82.5\% = 17.5\%$$

$$\text{Repayment Amount} = \$120,000 \times 17.5\% = \$21,000$$

The Company shall pay the portion of the Infrastructure Credit to be repaid pursuant to this Section 2.4 within 30 days of receipt of a written statement setting forth the Repayment Amount. If not timely paid, the Repayment Amount 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 survives termination of the Agreement.

Section 2.5. Filings. To assist the County in administering the Infrastructure Credits, the Company shall, for the Credit Term, prepare and file a separate schedule to the SCDOR PT-100, PT-300 with respect to the Property. Additionally, the Company shall, on or before January 31 of each year during the Credit Term, commencing in January 31, of the year following the first year of commencement as described in Exhibit B, deliver to the Economic Development Director of the County the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution, with respect to the Company.

Section 2.6 Cumulative Infrastructure Credit. The cumulative dollar amount expended by the Company on Infrastructure shall equal or exceed the cumulative dollar amount of all the Infrastructure Credits received by the Company.

ARTICLE III DEFAULTS AND REMEDIES

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

(a) Failure by the Company to certify the Investment Commitment or the Jobs Commitment by the Certification Date, which failure has not been cured within 30 days following receipt of written notice from the County that the commitment has not been certified;

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

(c) A Cessation of Operations. For purposes of this Agreement, a "Cessation of Operations" means closure of the Project or the cessation of production and shipment of products to customers for a continuous period of twelve (12) months;

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

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

(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 Company to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

Section 3.2. Remedies on Default.

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

(i) terminate the Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

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

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

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

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

ARTICLE IV MISCELLANEOUS

Section 4.1. *Examination of Records; Confidentiality.*

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

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

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

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

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

Section 4.5. *Limitation of Liability.*

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

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

Section 4.6. Indemnification Covenant.

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

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

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

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

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

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

if to the County: Richland County, South Carolina

Attn: Director of Economic Development
2020 Hampton Street
Columbia, South Carolina 29204
Phone: 803.576.2043
Fax: 803.576.2137

with a copy to
(does not constitute notice):

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

if to the Company:

with a copy to

Turner Padgett Graham & Laney, P.A.
Attn: Ian D. McVey
1901 Main St., Suite 1700 (29201)
P.O. Box 1473
Columbia, South Carolina 29202
Phone: 803.227.4267
Fax: 803.400.1564

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

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

Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

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

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

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

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

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

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

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

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

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

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

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

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO INFRASTRUCTURE CREDIT AGREEMENT]

IN WITNESS WHEREOF, [PROJECT CENTRUM], has caused this Agreement to be executed by their authorized officer(s), effective the day and year first above written.

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

[SIGNATURE PAGE 2 TO INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

EXHIBIT B (See Section 2.3)

DESCRIPTION OF INFRASTRUCTURE CREDIT

Beginning with the property tax year as selected by the Company with notice to the County, such property tax year not to be prior to the 2021 property tax year and not after the 2025 property tax year, the Company is entitled to claim a thirty-five percent (35%) Special Source Revenue Credit against the fees-in-lieu of *ad valorem* property taxes on all Property for a ten (10) year period commencing with the property tax year selected by the Company.

EXHIBIT C (See Section 2.5)

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

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

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

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

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

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

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

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

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

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

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

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


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

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Authorizing the first amendment to the master agreement governing the Forest Acres Business Park between Richland County and Fairfield County; authorizing the first amendment to intergovernmental agreement between Richland County and the City of Forest Acres; 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 FIRST AMENDMENT TO THE MASTER AGREEMENT GOVERNING THE FOREST ACRES BUSINESS PARK BETWEEN RICHLAND COUNTY AND FAIRFIELD COUNTY; AUTHORIZING THE FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN RICHLAND COUNTY AND THE CITY OF FOREST ACRES; AND OTHER RELATED MATTERS.

WHEREAS, at the request of the City of Forest Acres, South Carolina (“City”) and in order to stimulate the commercial redevelopment of the old Cardinal Newman School site (“Site”) and provide or cause to be provided certain infrastructure for the benefit of the Site and surrounding areas (“Infrastructure”), Richland County, South Carolina (“Richland County”) and Fairfield County, South Carolina (“Fairfield County”) previously jointly developed the Forest Acres Business Park (“Park”) and entered into a “Master Agreement Governing The Forest Acres Business Park” dated as of June 21, 2016 (the “Master Agreement”) to, among other things, govern the operations of the Park, including the sharing of expenses and revenues and the manner in which the revenue is to be distributed to each of the taxing entities within Richland County and Fairfield County;

WHEREAS, Richland County and the City entered into an Intergovernmental Agreement dated as of June 21, 2016 (“Intergovernmental Agreement”), the terms of which provide the terms and conditions under which Richland County would distribute certain revenues of the Park to the City for the purpose of paying for the Infrastructure;

WHEREAS, due to construction delays on the Site and certain administrative delays associated with the Intergovernmental Agreement, the Park has not generated the expected Fees (as defined in the Intergovernmental Agreement), and other than standard distribution of the Fees to the taxing entities in Richland County the City has not received any Fees from the Park; and

WHEREAS, the City has requested and Richland County desires to (i) enter into the First Amendment to Master Agreement with Fairfield County, the form of which is attached as Exhibit A (“Master Agreement Amendment”), and (ii) enter into the First Amendment to Intergovernmental Agreement with the City, the form of which is attached as Exhibit B (“IGA Amendment”) to amend the period of time under each of the Master Agreement and the Intergovernmental Agreement during which the City is eligible to receive the Fees so that the City is eligible to receive Fees from the Park now that portions of the expected development have been and are continuing to be constructed.

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

Section 1. Approval and Execution of the Master Agreement Amendment. The amendments to the Master Agreement as set forth in the Master Agreement Amendment are hereby approved. The form, terms and provisions of the Master Agreement Amendment are hereby approved with any such revisions as are not materially adverse to Richland County and are approved by the Richland County Administrator (“Administrator”) after consultation with legal counsel to Richland County. The Richland County Council Chair (“Chair”) is authorized to execute the Master Agreement Amendment, the Clerk to the Richland County Council (“Clerk”) is authorized to attest the same, and the Administrator is authorized to deliver the Master Agreement Amendment to Fairfield County.

Section 2. *Approval and Execution of the IGA Amendment.* The amendments to the Intergovernmental Agreement as set forth in the IGA Amendment are hereby approved. The form, terms and provisions of the IGA Amendment are hereby approved with any such revisions as are not materially adverse to Richland County and are approved by the Administrator after consultation with legal counsel to Richland County. The Chair is authorized to execute the IGA Amendment, the Clerk is authorized to attest the same, and the Administrator is authorized to deliver the IGA Amendment to the City.

Section 3. *Further Assurances.* The Chair, the Clerk and the Administrator (or their respective designees) are authorized to execute whatever other documents and take whatever further actions as may be necessary to effect the intent of this Ordinance.

Section 4. *Severability.* If any part of this Ordinance is unenforceable, the remainder is unaffected.

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

Section 6. *Effective Date.* This Ordinance is effective after third and final reading.

RICHLAND COUNTY, SOUTH CAROLINA

Chair of County Council

(SEAL)

ATTEST:

Clerk to County Council
Richland County, South Carolina

READINGS:

First Reading: February 9, 2021
Second Reading: February 16, 2021
Public Hearing:
Third Reading:

EXHIBIT A
FIRST AMENDMENT TO MASTER AGREEMENT

FIRST AMENDMENT TO MASTER AGREEMENT

THIS FIRST AMENDMENT TO MASTER AGREEMENT GOVERNING THE FOREST ACRES BUSINESS PARK (this “Amendment”), dated as of March [], 2021, is made and entered into by and between RICHLAND COUNTY, SOUTH CAROLINA, a public body corporate and a political subdivision of the State of South Carolina (“Richland County”), and FAIRFIELD COUNTY, SOUTH CAROLINA, a public body corporate and a political subdivision of the State of South Carolina (“Fairfield County”) and together with Richland County, the “Counties”). All capitalized terms used herein without definition shall have the same meanings herein as such terms are defined in the Master Agreement (hereinafter defined).

RECITALS

WHEREAS, the Counties previously developed the Forest Acres Business Park (“Park”) and entered into a Master Agreement Governing the Forest Acres Business Park dated as of June 21, 2016 (the “Master Agreement”) to, among other things, govern the operations of the Park and provide for the sharing of FILOT Revenue generated by the Park;

WHEREAS, the Counties desire to amend certain provisions of the Master Agreement to extend the term of the Master Agreement; and

WHEREAS, the Counties have obtained the consent of the City of Forest Acres, South Carolina (“City”) to this Amendment because the Property is geographically situated in the Park.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Counties hereby agree as follows:

ARTICLE I AMENDMENTS

Section 1.1. Subsections 3.02(b) and 3.03(a) of the Master Agreement are amended by adding the clause “Commencing with tax year 2020,” to the beginning of each subsection.

Section 1.2 Section 3.04 of the Master Agreement is hereby amended by striking Section 3.04 in its entirety and replacing it with the following:

Section 3.04. *Annual Report and Disbursement.* Not later than July 15 of each year, starting July 15, 2021, each County shall prepare and submit to the other County a report detailing the FILOT Revenue owed and paid to such other County under this Agreement in the prior fiscal year. Each County shall deliver a check for the amount reflected in that report at the same time to the other County.

Section 1.3 Section 4.10 of the Master Agreement is amended by striking Section 4.10 in its entirety and replacing it with the following:

Section 4.10. *Termination.* Notwithstanding any part of this Agreement to the contrary, this Agreement terminates automatically on the earlier of (a) the termination of the Intergovernmental Agreement between Richland County and the City dated as of July 16, 2016, as amended, or (b) July 15, 2031.

ARTICLE II
MISCELLANEOUS

Section 2.1. This Amendment shall be effective from the date first above written.

Section 2.2. Except as specifically amended hereby, the Master Agreement shall continue in full force and effect in accordance with its terms. Reference to this specific Amendment need not be made in the Master Agreement or any other instrument or document executed in connection therewith, or in any certificate, letter or communication issued or made pursuant to or with respect to the Master Agreement, any reference in any of such items to the Master Agreement being sufficient to refer to the Master Agreement as amended hereby. Richland County and Fairfield County confirm all their respective representations and covenants made under the Master Agreement as if made on the date of this Amendment.

Section 2.3. This Amendment shall be governed by State law.

Section 2.4. This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank. Signature Page Follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair

ATTEST:

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

FAIRFIELD COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair

ATTEST:

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

ACKNOWLEDGED AND CONSENTED TO BY
THE CITY OF FOREST ACRES, SOUTH CAROLINA:

City Administrator

EXHIBIT B
FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT

FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT

THIS FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (this “Amendment”), dated as of March [], 2021, is made and entered into by and between RICHLAND COUNTY, SOUTH CAROLINA, a public body corporate and a political subdivision of the State of South Carolina (“Richland County”), and the CITY OF FOREST ACRES, SOUTH CAROLINA, a municipal corporation and a political subdivision of the State of South Carolina (the “City,” and together with Richland County, the “Parties” and each individually, a “Party”). All capitalized terms used herein without definition shall have the same meanings herein as such terms are defined in the Intergovernmental Agreement (hereinafter defined).

RECITALS

WHEREAS, Richland County and the City entered into an Intergovernmental Agreement dated as of June 21, 2016 (the “Intergovernmental Agreement”) pursuant to which Richland County agreed to distribute certain Fees from the Park to the City and the City agreed to establish Infrastructure for the benefit of the Site and surrounding areas using the portion of the Fees the City receives from the Park;

WHEREAS, pursuant to the Intergovernmental Agreement, the City was eligible to receive its portion of Fees until the earlier of (i) the distribution to the City of \$4,000,000 in Fees, or (ii) 10 years from the date of the Intergovernmental Agreement;

WHEREAS, due to construction delays on the Site and certain administrative delays associated with the Intergovernmental Agreement, as of the date of this Amendment, the Park has not generated the expected Fees and other than the standard distribution of Fees to taxing entities in Richland County, the City has not received any Fees from the Park; and

WHEREAS, Richland County and the City desire to amend certain provisions of the Intergovernmental Agreement to extend the period of time during which the City is eligible to receive the Fees so the City is eligible to receive Fees.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I AMENDMENTS

Section 1.1. Section 3 of the Intergovernmental Agreement entitled “**Location of the Park**” is amended by striking Section 3(A) in its entirety and replacing it with the following:

(A) The Park consists of property located in the City as is hereinafter more specifically described in Exhibit A hereto (the “Property”). The Property shall be subject, beginning with the fee payments received for tax year 2020, to the distribution of revenues provided for in the Master Agreement. It is specifically recognized that the Park may consist of non-contiguous properties. The boundaries of the Park may be enlarged from time to time, but only in accordance with the terms of the Master Agreement.

As a note to the reader, the reference to (i) “Exhibit A” in the foregoing section above refers to “Exhibit A” attached to the Intergovernmental Agreement as no separate “Exhibit A” is attached to or included with this Amendment, and (ii) the Master Agreement includes all amendments to the Master Agreement as may be implemented from time to time.

Section 1.2. Section 6 of the Intergovernmental Agreement entitled “**Distribution of Fee-In-Lieu-Of-Tax Payments**” is hereby amended by striking Section 6(B) in its entirety and replacing it with the following:

(B) Upon the earlier of (i) the distribution to the City of \$4,000,000 in Fees as provided in Section 5(C) above or (ii) July 15, 2031, this Intergovernmental Agreement will automatically terminate.

Section 1.3. Section 6 of the Intergovernmental Agreement entitled “**Distribution of Fee-In-Lieu-Of-Tax Payments**” is hereby amended by adding Section 6(C) as follows:

(C) Should the Park continue to exist after the termination of the Intergovernmental Agreement as provided in Section 6(B) above, any of the City’s share of the Residual FILOT Revenues shall be calculated in the manner set forth at South Carolina Code Annotated Section 12-44-80(A) as if the Property were not located in a Park.

ARTICLE II MISCELLANEOUS

Section 2.1. This Amendment shall be effective from the date first above written.

Section 2.2. Except as specifically amended hereby, the Intergovernmental Agreement shall continue in full force and effect in accordance with its terms. Reference to this specific Amendment need not be made in the Intergovernmental Agreement or any other instrument or document executed in connection therewith, or in any certificate, letter or communication issued or made pursuant to or with respect to the Intergovernmental Agreement, any reference in any of such items to the Intergovernmental Agreement being sufficient to refer to the Intergovernmental Agreement as amended hereby. Richland County and the City confirm all their respective representations and covenants made under the Intergovernmental Agreement as if made on the date of this Amendment.

Section 2.3. This Amendment shall be governed by South Carolina law.

Section 2.4 This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank. Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair

ATTEST:

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

CITY OF FOREST ACRES, SOUTH CAROLINA

(SEAL)

By: _____
City Administrator

ATTEST:

By: _____
City Clerk
City of Forest Acres, South Carolina

Richland County Council Request for Action

Subject:

Authorizing the execution and delivery of an assignment by Tyson Prepared Foods, Inc. ("TPF") of a 2017 fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and TPF to Project Charlie; the execution and delivery of an assignment by TPF to Project Charlie of a 1996 fee-in-lieu of taxes agreement in the form of a lease agreement by and between Richland County, South Carolina and TPF; the execution and delivery of an amendment to the 2017 fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and TPF; 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 AN ASSIGNMENT BY TYSON PREPARED FOODS, INC. (“TPF”) OF A 2017 FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND TPF TO PROJECT CHARLIE; THE EXECUTION AND DELIVERY OF AN ASSIGNMENT BY TPF TO PROJECT CHARLIE OF A 1996 FEE-IN-LIEU OF TAXES AGREEMENT IN THE FORM OF A LEASE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND TPF; THE EXECUTION AND DELIVERY OF AN AMENDMENT TO THE 2017 FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND TPF; 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 (“Simplified FILOT Act”) and Title 4, Chapter 12, Code of Laws of South Carolina, 1976, as amended (“Lease 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.

WHEREAS, under the authority provided in the MCIP Act, the County created a multicounty park with Fairfield County (“Park”) which is governed by the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated as of September 1, 2018 (“Park Agreement”);

WHEREAS, the County entered into a fee in lieu of taxes agreement under the Lease FILOT Act in the form of a Lease Agreement dated December 15, 1996, with IBP, Inc., predecessor to TPF, as extended by that certain Ordinance No. 037-17HR, with TPF (“1996 FILOT Agreement”);

WHEREAS, the County entered into a Fee-In-Lieu of *Ad Valorem* Taxes Agreement dated October 3, 2017 (“2017 FILOT Agreement”) under the FILOT Act with TPF (the 2017 FILOT Agreement and the 1996 FILOT Agreement may hereafter be referred to as the “FILOT Agreements”);

WHEREAS, TPF now desires to transfer and assign to Project Charlie (the “Company”) all rights and obligations of TPF under the FILOT Agreements, and the Company desires to accept such assignment and assume all obligations of TPF under the FILOT Agreements using the form of proposed assignment presented to the County Council attached hereto as Exhibit A (the “Assignment”);

WHEREAS, TPF and the Company have requested the County to consent to the Assignment and to take such action as may be necessary or appropriate in order to effectuate such consent, including but not limited to making appropriate amendments to the FILOT Agreements with the Company;

WHEREAS, the County desires to consent to the Assignment;

WHEREAS, the County, acting by and through its County Council is authorized pursuant to the FILOT Act and the MCIP Act to provide special source revenue credits (“Infrastructure Credits”) against FILOT Payments derived from (i) economic development property or (ii) subject to ad valorem taxes due to the property location in a Park 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, it is anticipated that the Company will acquire certain of the assets of TPF, including all assets subject to the FILOT Agreements and the land and building of TPF, and will additionally invest \$44,000,000 in personal property and \$10,200,000 in improvements to the land and building (the “Project”);

WHEREAS, the County and the Company desire to amend the 2017 FILOT Agreement to: (i) provide certain Infrastructure Credits to the Company; (ii) extend the Investment Period (as defined in the 2017 FILOT Agreement; and (iii) extend the term of the 2017 FILOT Agreement, all as an inducement for the Company to invest in the County (the “Amendment”);

WHEREAS, there has been prepared and presented to this meeting of County Council the proposed form of the Amendment between the County and the Company in the form attached hereto as Exhibit B;

WHEREAS, it appears that the Assignment and the Amendment now before this meeting are in appropriate form and are appropriate instruments to be executed and delivered or approved by the County for the purposes intended.

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

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

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

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

(c) The purposes to be accomplished by the Project are proper governmental and public purposes; and

(d) The benefits of the Project are greater than the costs.

Section 2. The County, pursuant to Section 12-44-120 of the Act, hereby expressly consents and agrees to the following:

- (a) transfer and assignment pursuant to the Assignment by TPF to the Company of TPF's rights in and obligations under the 1996 FILOT Agreement and the 2017 FILOT Agreement; and
- (b) the amendment of the 2017 FILOT Agreement to (i) provide certain Infrastructure Credits to the Company; (ii) extend the Investment Period (as defined in the 2017 FILOT Agreement) by 5 years; and (iii) extend the term of the 2017 FILOT Agreement by 10 years, all as provided by and pursuant to the Amendment.

Section 3. In order to promote industry, develop trade and utilize the manpower, agricultural products and natural resources of the State, the forms, terms and provisions of the Assignment and the Amendment which are before this meeting and filed with the Clerk to County Council are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Assignment and the Amendment were set out in this Ordinance in their entirety. The Chair of the County Council and the County Administrator are hereby authorized, empowered and directed to execute, acknowledge and deliver the Assignment and the Amendment to the Company. The Assignment and the Amendment are to be in substantially the forms now before this meeting and hereby approved, or with such changes therein as shall be approved, upon advice of counsel, by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the forms of the Assignment and the Amendment now before this meeting.

Section 4. The Chair of County Council, the County Administrator and the Clerk to County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the Assignment and the Amendment and the performance of all obligations of the County under and pursuant to the Assignment and the Amendment, said documents to be in substantially the form presented to this County Council together with such changes or amendments thereto as may be approved by the County Attorney, and to effect the performance of all obligations of the County thereunder.

Section 5. 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. 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. 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: February 16, 2021
Second Reading:
Public Hearing:
Third Reading:

Exhibit A

FORM OF ASSIGNMENT

(See attached)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is made effective as of the ___ day of [February], 2021 (the “Effective Date”), by and among Tyson Prepared Foods, Inc., a Delaware corporation (“Tyson Prepared Foods”), **[PROJECT CHARLIE]**, a Delaware limited liability company (“Company”) and Richland County, South Carolina (the “County”), a body politic and corporate and political subdivision of the State of South Carolina (the “State”), acting by and through its County Council (the “County Council”) as governing body of the County.

WHEREAS, Tyson Prepared Foods, successor to IBP, Inc., and the County entered into a fee in lieu of taxes agreement in the form of a Lease Agreement dated December 15, 1996, as extended by that certain Ordinance No. 037-17HR (“1996 FILOT Agreement”);

WHEREAS, Tyson Prepared Foods and the County entered into a Fee-In-Lieu of *Ad Valorem* Taxes Agreement dated as of October 3, 2017 (“2017 FILOT Agreement,” and, together with the 1996 FILOT Agreement, the “FILOT Agreements”);

WHEREAS, the Company is acquiring effective as of the Effective Date certain assets of Tyson Prepared Foods, including certain personal property subject to the FILOT Agreements and the real estate and building of Tyson Prepared Foods;

WHEREAS, the Company will additionally invest \$44,000,000 in personal property and \$10,200,000 in real property (land and building) to renovate one or more existing buildings and infrastructure; and

WHEREAS, Tyson Prepared Foods effective as of the Effective Date desires to assign to the Company, and the Company desires to accept, all of Tyson Prepared Foods’ right, title, and interest in, to, and under the FILOT Agreements.

NOW, THEREFORE, in consideration of the reasons recited above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tyson Prepared Foods, the Company and County Council hereby agree as follows:

1. Tyson Prepared Foods hereby assigns, contributes, grants, conveys and transfers to the Company, its representatives, successors, and assigns, all of Tyson Prepared Foods’s right, title and interest in, to and under the FILOT Agreements, to be effective as of the Effective Date.
2. The Company hereby accepts the foregoing assignment of the FILOT Agreements and agrees to assume all of Tyson Prepared Foods’s obligations under the FILOT Agreements which arise or relate to the period after the Effective Date and agrees to be bound thereby.

3. The County hereby consents to the assignment from Tyson Prepared Foods to the Company of all rights, title and interest in, to and under the FILOT Agreements and to the assumption by the Company of all obligations contained in the FILOT Agreements which arise or relate to the period after the Effective Date hereof and agrees to release Tyson Prepared Foods from any obligations arising or relating to the period after the Effective Date hereof. Tyson Prepared Foods expressly acknowledges that any obligations arising under the FILOT Agreements before the Effective Date are obligations of Tyson Prepared Foods.
4. This Assignment will be binding on and inure to the benefit of the parties herein, their heirs, executors, administrators, successors-in-interest and assigns.
5. This Assignment may only be amended by a writing signed by Tyson Prepared Foods, the Company and the County.
6. This Assignment shall be governed by and construed in accordance with the laws of the State of South Carolina.
7. A determination that any provision of this Assignment is unenforceable or invalid shall not affect the enforceability or validity of any other provision and any determination that the application of any provision of this Assignment to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.
8. This Assignment may be executed in two or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument.

(Remainder of page left blank intentionally.)

This Assignment has been executed by the parties to be effective as of the Effective Date.

TYSON PREPARED FOODS, INC.

By: _____
Its: _____

PROJECT CHARLIE

By: _____
Its: _____

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

ATTEST:

Clerk to Council

Exhibit B

FORM OF AMENDMENT

(See attached)

4821-5462-3449 v.2

FIRST AMENDMENT TO 2017 FILOT AGREEMENT

THIS FIRST AMENDMENT TO 2017 FILOT AGREEMENT (this “Amendment”) is dated effective as of the [] day of [February], 2021 (the “Effective Date”), by and between RICHLAND COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and political subdivision of the State of South Carolina (the “State”), acting by and through its County Council (the “County Council”) as governing body of the County, and [PROJECT CHARLIE], a Delaware limited liability company (the “Company”).

WITNESSETH:

WHEREAS, Tyson Prepared Foods, Inc. (“Tyson Prepared Foods”) and the County entered into a Fee-In-Lieu of *Ad Valorem* Taxes Agreement dated as of October 3, 2017 (“2017 FILOT Agreement”) under which Tyson Prepare Foods committed to invest not less than \$9,000,000 in real and personal property in the County;

WHEREAS, Tyson Prepared Foods assigned the 2017 FILOT Agreement to the Company pursuant to that certain Assignment and Assumption Agreement effective as of the Effective Date by and among Tyson Prepared Foods, the Company and County Council;

WHEREAS, the Company acquired as of the Effective Date certain assets of Tyson Prepared Foods, including certain assets subject to the 2017 FILOT Agreement, and the real estate and building of Tyson Prepared Foods;

WHEREAS, the Company has committed to make additional investment in the County and will invest a total of \$44,000,000 in personal property and \$10,200,000 in the acquired real property (land and building) to renovate one or more existing buildings and infrastructure;

WHEREAS, the County and the Company desire to (i) amend the 2017 FILOT Agreement to provide for certain Infrastructure Credits, as defined below, to the Company; and (ii) extend the Investment Period by five (5) years and the Phase Termination Period by ten (10) years (as such terms are defined in the 2017 FILOT Agreement), as an inducement to invest in the County.

NOW, THEREFORE, the parties hereby agree as follows:

SECTION 1. INFRASTRUCTURE CREDITS.

A new Article V, Section 5.1 is hereby added to the 2017 FILOT Agreement as follows:

ARTICLE V

ADDITIONAL INCENTIVES

Section 5.1. *Infrastructure Credits.* To assist in paying for costs of Infrastructure, the Sponsor is entitled to claim an Infrastructure Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and

calculation of the Infrastructure Credit is described in Exhibit D. In no event may the Sponsor's aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

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

SECTION 2. EXHIBIT D – DESCRIPTION OF INFRASTRUCTURE CREDIT

A new Exhibit D is hereby added to the 2017 FILOT Agreement as follows:

EXHIBIT D

DESCRIPTION OF INFRASTRUCTURE CREDIT

The Sponsor and any Sponsor Affiliate shall be entitled to an annual Infrastructure Credit equal to 40% for years one (1) through five (5) and 35% for years six (6) through ten (10) against the amount of the annual FILOT Payment due for that year, anticipated to commence with the property tax payment for tax year 2022.

To the extent the Infrastructure Credit is used to pay for the cost of personal property and the removal of such personal property results in a penalty pursuant to 4-29-68(A)(2)(ii) of the Code, the Sponsor shall be entitled to an additional Infrastructure Credit against any remaining FILOT Payments to be made on property remaining subject to the FILOT Payments after the date of such removal.

To the extent the Infrastructure Credits pursuant to this Exhibit are greater than the amount of the FILOT Payment due hereunder, such Infrastructure Credit shall be carried over to the next year or years, as necessary, to apply all accrued Infrastructure Credits.

SECTION 3. DEFINITIONS

Article 1, Section 1.1 of the 2017 FILOT Agreement is hereby amended to include the following definitions:

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

“Infrastructure Credit” means the special source revenue credit provided to the Sponsor pursuant to Section 12-44-70 of the Act and 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.

Article 1, Section 1.1 of the 2017 FILOT Agreement is hereby amended to amend and restate the following definitions so that, as amended, such definitions shall read as follows:

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending ten years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period is expected to end (unless the Commencement Date is later than December 31, 2017), on December 31, 2027.

“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.

SECTION 4. 2017 FILOT AGREEMENT.

Every provision of the 2017 FILOT Agreement not amended or modified by the terms of this Amendment shall remain unchanged and in full force and effect.

SECTION 5. COUNTY AND COMPANY REPRESENTATIONS.

A. The County represents that it has approved this Amendment by adoption of an Ordinance dated [_____], and in accordance with the procedural requirements of the County Council and any other applicable law.

B. The Company represents that the execution, delivery and performance by the individual or entity signing this Amendment on behalf of the Company has been duly authorized and approved by all requisite action on the part of the Company.

SECTION 6. COUNTERPARTS.

This Amendment may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

SECTION 7. EFFECTIVE DATE.

This Amendment is effective as of the date first above written.

“Infrastructure Credit” means the special source revenue credit provided to the Sponsor pursuant to Section 12-44-70 of the Act and 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.

Article 1, Section 1.1 of the 2017 FILOT Agreement is hereby amended to amend and restate the following definitions so that, as amended, such definitions shall read as follows:

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending ten years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period is expected to end (unless the Commencement Date is later than December 31, 2017), on December 31, 2027.

“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.

SECTION 4. 2017 FILOT AGREEMENT.

Every provision of the 2017 FILOT Agreement not amended or modified by the terms of this Amendment shall remain unchanged and in full force and effect.

SECTION 5. COUNTY AND COMPANY REPRESENTATIONS.

A. The County represents that it has approved this Amendment by adoption of an Ordinance dated [_____], and in accordance with the procedural requirements of the County Council and any other applicable law.

B. The Company represents that the execution, delivery and performance by the individual or entity signing this Amendment on behalf of the Company has been duly authorized and approved by all requisite action on the part of the Company.

SECTION 6. COUNTERPARTS.

This Amendment may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

SECTION 7. EFFECTIVE DATE.

This Amendment is effective as of the date first above written.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

RICHLAND COUNTY, SOUTH CAROLINA

By: _____

Its: _____

ATTEST:

Clerk to Council

[PROJECT CHARLIE]

By: _____

Name: _____

Its: _____

STATE OF SOUTH CAROLINA)
)
RICHLAND COUNTY)

**A RESOLUTION OF
RICHLAND COUNTY, SOUTH CAROLINA**

**APPROVING THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE BLYTHEWOOD BUSINESS PARK;
AND OTHER RELATED MATTERS.**

WHEREAS, Richland County, South Carolina (“County”) owns certain real property known as the Blythewood Business Park;

WHEREAS, the County desires to market the Blythewood Business Park to technology-forward manufacturers in order to develop the County’s knowledge-economy base and a highly skilled workforce within the County;

WHEREAS, to assist in the marketing of the Blythewood Business Park, the County has created a master plan for the development of the real property comprising the Blythewood Business Park;

WHEREAS, to effect the master development of the Blythewood Business Park and to promote a uniform aesthetic in the Blythewood Business Park, the County desires to subject the Blythewood Business Park to the Declaration of Covenants, Conditions and Restrictions (“Declarations”), the form of which is attached as Exhibit A.

THE COUNTY COUNCIL OF RICHLAND COUNTY RESOLVES:

Section 1. Adoption of Covenants. The County Council hereby adopts the Declarations, which are in substantially final form as attached. The Chair of County Council (“Chair”) or the County Administrator are each authorized to execute the Declarations in the name of and on behalf of the County, with such modifications to the Declarations as are approved by the Chair or the County Administrator on receipt of advice from counsel to the County and as are not materially adverse to the County. The County Administrator or his designee is further authorized to record the Declarations with the County’s Register of Deeds.

Section 2. Further Assurances. The County Council further authorizes the Chair, the County Administrator and various other County officials and staff, acting at the direction of the County Administrator to take whatever further action and to draft, execute, deliver and post whatever further documents as may be appropriate to effect the intent of this Resolution.

Section 3. General Repealer. Any resolution or other order of County Council, the terms of which are in conflict with this Resolution, is, only to the extent of that conflict, repealed.

Section 4. Effective Date. This Resolution is effective on adoption by County Council.

[SIGNATURE PAGE FOLLOWS]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

Adopted February 16, 2021.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to Richland County Council

EXHIBIT A

**FORM OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR [_____]INDUSTRIAL
PARK
RICHLAND COUNTY, SOUTH CAROLINA**

This Declaration is made as of this _____ day of _____, 2019, by **RICHLAND COUNTY, SOUTH CAROLINA**, a South Carolina political subdivision (hereinafter referred to as the “*Declarant*”).

WHEREAS, the Declarant is the owner of certain real property, located in Richland County, South Carolina, being more particularly shown on **Exhibit A** attached hereto (the “*Property*”), and desires to and intends to subject the Property to a master development plan and to allow the Developer to offer parcels of the Property, of varying sizes, for sale to purchasers or for lease to tenants or for other development, which activities being about economic growth and development in Richland County; and,

WHEREAS, the Property is designated on a plat (the “*Plat*”) recorded in Plat Book _____, at Page _____ in the Office of the Clerk of Court for Richland County, South Carolina, which is incorporated herein by reference.

NOW THEREFORE, the Declarant hereby declares that this Declaration and the covenants, conditions and restrictions established herein shall be covenants to run with the land and that all the Property described in **Exhibit A** attached hereto is herewith made subject and subordinate to the terms, provisions and conditions hereof. These covenants, conditions and restrictions shall be binding upon each and every person or entity, their heirs, successors and assigns, who shall acquire any interest in the Property or any part or portion thereof. By the acceptance of any interest in all or any part of the Property, the person or entity to whom such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration, and there are hereby created and established in and for the Park, the following restrictive covenants, easements, reservations and requirements.

**ARTICLE I
DEFINITIONS**

When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have the following meanings, and all definitions shall be applicable to the singular and plural forms of any such terms:

- A. “**Additional Property**” shall mean and refer to the real property, that must be adjacent to Property subject hereto, which is not initially included within the Property that may be subjected to this Declaration by the Declarant, together with any improvements thereon.
- B. “**Association**” shall mean the [_____] Owner’s Association, or a non-profit corporation of similar or different name to be selected by Developer and which Developer shall establish at a time hereafter to be selected by Developer.

- C. “**Common Areas**” shall mean and refer to those areas of the Property which are not building sites, including but not limited to parks, median strips, drainage areas, sidewalks, pedestrian paths, walking trails, private rights-of-way and easements, including beautification, ponds, utility, dams, and drainage easements, sign location areas and signs located therein.
- D. “**Declarant**” shall refer to Richland County, South Carolina, acting by and through its Economic Development Office, its successors and assigns.
- E. “**Design Review Committee**” shall refer to Richland County, South Carolina, acting by and through its Economic Development Office, or such other committee as may be appointed by the County Council, provided however, the Town of Blythewood shall at all times, unless it affirmatively waives such right, have one (1) representative on the Design Review Committee to be appointed by the governing body (Town Council) of the Town of Blythewood. Notwithstanding any provision herein to the contrary, this Declaration may not be amended to remove this requirement regarding a representative of the Town of Blythewood being on the Design Review Committee, unless the Town of Blythewood is a party to such recorded amendment for the purpose of consenting thereto. The Design Review Committee shall be constituted with three (3) members – (i) two (2) representatives appointed by Richland County, South Carolina, acting by and through its Economic Development Office, and (ii) the above-described representative appointed by the governing body (Town Council) of the Town of Blythewood.
- F. “**Developer**” shall refer to Richland County, South Carolina, acting by and through its Economic Development Office, its successors and assigns.
- G. “**Improvements**” shall mean any and all betterments, construction and/or improvements of any parcel, or any portion thereof, and shall include without limitation all changes in site topography, underground utilities, all buildings, outbuildings, parking areas, loading areas, fences, wall hedges, landscaping, mass plantings, poles, signs, monuments, sculptures, driveways, lawns, drives, trees and shrubs, and any structure of any type or kind.
- H. “**Infrastructure**” shall mean and refer to those areas consisting of roads, sidewalks, pedestrian paths, walking trails, water and sewer improvements within the Property which are intended for the common use and enjoyment of the public. Those areas are the rights-of-way for all public roadways, utilities and all other public easement areas as shown on any recorded plat.
- I. “**Owner**” shall mean and refer to any person or entity which owns fee simple title to any parcel, which shall include the Declarant/Developer, or any other entity that has been granted a voting proxy pursuant to a lease arrangement or other contract. All restrictions and obligations set forth herein which are binding on an Owner, shall also be binding on Lessees, licensee and occupants of the Property to the extent appropriate.
- J. “**Parcel**” shall mean and refer to any lot(s) or parcel(s) of land, or subdivision thereof, in the Park, as shown on plats recorded by the Declarant/Developer together with any improvements thereon; provided, however, a Parcel shall not include any roads, right-of-way or other area(s) dedicated to the public use.
- K. “**Property**” and “**Park**” shall mean and refer to that certain real property described on **Exhibit A** attached hereto, together with any improvements thereon, together with

such Additional Property and any improvements thereon, which the Declarant may, in accordance with the provisions of Article 3, elect to subject to the terms and conditions of this Declaration.

L. “*Tenant*” shall mean the owner of a leasehold interest in a part or all of the Property.

ARTICLE II PLAN OF DEVELOPMENT

The Developer intends to develop the Property as an Industrial Park which shall promote the development of industrial and manufacturing uses, research and institutional, and related uses. The Developer shall develop the Property as an Industrial Park by building, constructing and providing roadways, necessary utilities and other improvements within the Property; by dividing portions of the Property into parcels; by selling, leasing or retaining parcels or subdivisions thereof, and by constructing improvements thereon in its sole discretion; and by designating portions of the Property, and all improvements thereon, if any, as Infrastructure, and conveying them to another public agency, where appropriate.

Declarant/Developer shall have the right, but not the obligation, to install, construct, operate, repair, demolish, remove and maintain improvements in, on, under, over and across the Property as specifically shown on the recorded plat or plats, including but not limited to water, sewer, and other utility systems or facilities, electric and television cable and their various attendant services, security facilities, refuse facilities, roadways and waterways. The land within the Park owned by the Declarant may be subdivided to comprise the most appropriate mix of parcels as determined by the Declarant/Developer.

ARTILCE III ADDITIONAL PROPERTY

The Declarant hereby reserves the option to submit at any time, or from time to time, Additional Property or any portion thereof to the provisions of this Declaration and thereby to cause the Additional Property or any portion thereof to become part of the Property, just as fully as if the portion or portions thereof were included within the Property initially subject to this Declaration on the date thereof. This submission shall be effected by the Declarant’s executing and recording in the Richland County Register of Deed’s Office an instrument entitled “Declaration of Inclusion” describing the Additional Property to be submitted to this Declaration and by recording a plat thereof. The Declarant/Developer shall thereafter have the right to plan, design, develop, change, modify, alter, construct, maintain, or manage any type of improvement upon the Additional Property, to divide it into Parcels, in its sole discretion, for its purposes, except as otherwise expressly stated in this Declaration. If any Additional Property is added to the Park, its development shall be in accordance with the provisions hereof.

ARTICLE IV
PROPERTY RIGHTS

- 4.1 General. Each Parcel shall, for all purposes, constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, shall be conveyed, transferred and encumbered in the same manner as any other real property. Each Owner, including the Declarant, shall be subject to the provisions of this Declaration.
- 4.2 Permitted Uses by Owners and Tenants. No person or entity shall be an Owner, Tenant or occupant of any Parcel unless such person or entity shall at all times use the Parcel for the following:
- 4.2.1 Industrial or manufacturing purposes or such incidental activities;
 - 4.2.2 Service businesses that are not engaged in retail sales on premises, provided, however that Parcels comprising not more than ten (10%) percent of the total Property may be utilized for the purpose of retail sales or other commercial activities;
 - 4.2.3 Educational, health care, or research purposes;
 - 4.2.4 Government or other public agencies; or
 - 4.2.5 Business or other commercial office purposes.

No Owner, Tenant or occupant of any Parcel shall use the Parcel for the following:

- 4.2.6 Commercial scrap storage or salvage yard;
- 4.2.7 Manufacture, storage, distribution or other purposes involving DOT Class A explosives;
- 4.2.8 Lumber yard, coal or wood yard as a primary business, but not necessarily to exclude the operations which are ancillary to permissible uses;
- 4.2.9 Commercial bulk petroleum storage facility;
- 4.2.10 Commercial landfill or other on-site commercial waste disposal facilities;
- 4.2.11 Quarry or other mining operations; or
- 4.2.12 Commercial infectious or hazardous waste facilities.
- 4.2.13 Any other uses determined by the Design Review Committee or Developer to be unsafe or dangerous, which constitute a nuisance which include, but shall not be limited to odor, dust, fumes, smoke, noise, vibration, or are objectionable by reason of their adverse effects on property within one (1) mile of any boundary of the Property.

ARTICLE V
REGULATION OF IMPROVEMENTS

- 5.1 Approval of Plans and Specifications. No improvements shall be constructed, erected, placed, altered, maintained or permitted on any parcel until plans and specifications therefore have been approved by the Design Review Committee.
- 5.2 Pre-Construction Meeting. Prior to the commencement of construction on any Parcel including site grading, a pre-construction meeting shall be conducted. The meeting shall include the Developer or Developer's representative, the Owner or Owner's representative, and the contractor including the site grading contractor.
- 5.3 Construction Vehicular Traffic. Developer shall have the right to control construction traffic during construction as well as access to a Parcel.
- 5.4 Completion of Construction. After commencement of construction of an improvement on any Parcel, the Owner thereof shall diligently prosecute the work thereon to the end that the improvement shall not remain in a partially finished condition any longer than reasonably necessary for completion thereof. During construction, the Owner shall cause the Parcel to remain in a reasonably neat and orderly condition, preventing the accumulation of trash and shall prevent runoff of surface water from the Parcel onto adjacent property or streets. The Owner shall implement plans for approval by Developer to contain all sediment, including washed, windblown and gravity, within the boundaries of the Parcel and insure that all areas of the Parcel to be exposed for longer than thirty (30) days be grassed. If, at the end of a twelve month period from the commencement of construction, construction of any improvement is not being diligently pursued by the Owner, then the Developer shall have the option to proceed with such construction or remove such incomplete construction. Cost incurred by the Developer relative to such construction shall be paid by the Owner. In the event Developer elects to remove such incomplete improvements, then Developer shall have the right to reacquire the Parcel at the original price, less Developer's costs incurred in said removal if the same have not been paid.
- 5.5 Excavation. No excavation shall be made on any Parcel except in connection with construction of improvements thereon. Upon completion of construction of improvements on the Parcel, exposed openings shall be backfilled and disturbed ground shall be smoothly graded and landscaped.
- 5.6 Storm Drainage.
- A. All Owners shall provide details of proposed storm drainage systems to the Design Review Committee for approval. These plans and specifications shall show locations concerning all applicable storm drainage improvements, including but not limited to size and location of underground piping, catch basins, headwalls, ditches and swales from each Parcel to any designated easements within the Property.
 - B. All storm drainage shall comply in all respects with all requirements of

the then-applicable storm drainage ordinance in effect in Richland County, South Carolina.

- C. The Developer may elect to require that the Owner provide on site water retention and detention facilities.
- D. All storm drainage shall be carried to designated drainage easements and in no case shall any storm drainage from the Parcel be carried across the Owner's property line onto another Parcel except when confined within the drainage easements or in order to access a drainage easement. No drainage of a Parcel shall be constructed which would prohibit the proper drainage of other Parcels within the Property. In no case shall any storm drainage from the Parcel be allowed to flow directly on any interior roads within the Property.
- E. Owner shall at all times manage and maintain all drainage facilities, including but not limited to retention/detention ponds within its Parcel in a safe, clean, orderly, neat and operable condition.

5.7 Landscaping.

- A. It is required that all Parcels be landscaped and that plans and specifications be submitted to the Design Review Committee for approval prior to installation. Such plans should indicate the location, size, type and height of each planting and an irrigation plan noted thereon. Such plans should reflect and take into account any landscaping which exists elsewhere in the Park within beautification easements or on adjacent property. All plans and specifications must reflect efforts to retain existing trees if any are on the Parcel.
- B. The area between the building walls and the Parcel's property lines, shall be used exclusively for the planting and growing of trees, shrubs, lawn, and other ground covering or material as approved by the Design Review Committee, except for such portions thereof as may be reasonably required for service access either to the buildings or parking and loading areas constructed on the parcel.
- C. Where pavement occurs between the building and any street frontage property line for the purposes of parking, then the pavement shall be separated by a minimum of forty (40) feet including designated easements from the said street frontage property line. The area between the pavement and the curb line of the street shall be suitably landscaped with either berms or other landscaping treatments which may include ground cover.
- D. Where pavement occurs adjacent to any side property line a minimum of five (5) feet of landscaping shall be provided along that side property line.
- E. All landscaping shall be installed within sixty (60) days after substantial completion of construction, weather permitting.
- F. Landscaped areas shall be perpetually maintained in a sightly and well-kept condition including such replanting and replacement as is, from time to time, required.
- G. In addition to compliance with all other provisions of this section, and

notwithstanding the actual zoning designation of the applicable Parcel, all landscaping shall comply with the more restrictive of the landscaping requirements applicable to the Town of Blythewood zoning districts “LI-2” and “TC” as long as such zoning districts exist within the Town of Blythewood.

5.8 Signage

- A. All signs, including identification, temporary, and information, and including those in the setback areas, on loading docks, parking facilities, on buildings, storage areas, etc., along with appropriate plans and specifications shall be first submitted to the Design Review Committee for approval. Such plans and specifications for any sign shall include but not be limited to the color(s), dimensions, location on the parcel, height, copy, and type of illumination, and other characteristics. No sign shall be erected, substituted, changed, or modified on the property without the prior written approval of the Design Review Committee.
- B. Signage must conform to the following standard:
 - 1. Signs for single-tenant buildings shall be restricted to advertising only the person, firm, company, or corporation operating the use conducted on the parcel or the product sold or produced thereon.
 - 2. For multi-tenant buildings, only one identification sign per building will be approved. Signs used for identification of individual Tenants in a multi-tenant building must be uniform both with regard to sign panel design and lettering style.
 - 3. All information signage, including instructions to visitors, vendors, and customers; directional signs; designated parking areas; driveway entrance signs; or any sign other than building identification sign must be uniform both with regard to sign panel design and lettering style.
 - 4. All temporary signs, including construction signs, “For Lease” or “For Sale” signs shall be approved by the Design Review Committee.
 - 5. Signs may be electrified but will be non-flashing.
 - 6. Signs may not project above the roofline of a building.
 - 7. Signs may not be located within dedicated easements.
 - 8. The above notwithstanding, the Design Review Committee at its sole discretion may approve or refuse requests for variances to this paragraph on a case by case basis.
 - 9. Strip lighting rather than floodlights shall be used for sign lighting.

5.9 Loading, Service and Outside Storage. All loading and receiving shall be conducted entirely on the Parcel at loading/receiving areas which shall not be permitted in the front yard of any Parcel or in the side yard that fronts on any interior public road and the frontage of any Parcel. Loading and receiving areas shall be located and screened so as to minimize their

visibility from any street or other right-of-way. Landscaped visual barriers, including earthen berms shall be erected so as to screen loading and receiving areas from public streets. No materials, supplies or equipment shall be permitted to remain outside of any building. Waste, rubbish, and garbage storage facilities shall be properly screened, and the inspection and construction thereof shall be subject to the review and approval of the Design Review Committee.

5.10 Parking.

- A. No parking shall be permitted on any street or any place other than on the paved parking spaces provided for and described herein below.
- B. No parking shall be permitted within dedicated easement areas.
- C. All parking areas and drives shall be paved with an impervious surface (asphalt or concrete) with curbs constructed of concrete.
- D. All parking areas located between the building and a public street shall be suitably landscaped with either berms or other landscaping treatments which may include ground cover.
- E. Adequate off-street parking shall be provided by each Owner for employees, tenants, occupants, customers, and visitors. The location, number and size of parking spaces shall be subject to review and approval by the Design Review Committee. The minimum standard for parking shall not be any less than that required by the Richland County Zoning Ordinance, unless the Design Review Committee approves and through the proper governing authorities a variance is granted.

5.11 Utility Connections. Except as otherwise approved by the Design Review Committee, all utility connections, including all electrical and telephone connections and installation of wires to improvements, shall be made underground from the nearest available source. Boring is required to access all utility which may be located within a public road or which may require crossing a public road. No transformer, electric, gas or other meter of any type or other apparatus shall be located on any power pole or hung on the outside of any building or other improvements, but the same shall be placed at or below ground level, and where placed at ground level, shall be adequately screened. All such installations shall be subject to the prior approval of the Design Review Committee. The above notwithstanding, overhead electrical and telephone connections shall be permitted during the construction period of the improvement.

5.12 Easements for the Developer. The Developer shall have an alienable and transferable right and easement on, over, through, under and across the Property for the purpose of constructing infrastructure improvements, and any other type of improvement whatsoever on the Property, specifically including, but not limited to amenities, utilities, roadways, sidewalks, pedestrian paths, and walking trails, as the Developer desires, and for the purpose of doing all things reasonably necessary and proper, in the sole discretion of the Developer, in connection with the development of the Property as an industrial park as specifically shown on the recorded plat or

plats; provided that in no event shall the Developer have the obligation to do any of the foregoing.

- 5.13 Utility Easements. The Developer hereby reserves and is given a perpetual, alienable and releasable easement(s) in the Property for the installation of utilities, including water, electric, telephone, gas, sewer, and drainage as specifically shown on the recorded plat or plats. The Developer shall have the unrestricted and sole right and power of alienating, conveying and releasing the easements reserved under the terms of this paragraph. All such easements, including those designated on the plat, shall remain private easements and the sole and exclusive property of the Developer, its successors and assigns, unless conveyed or alienated to third parties for the purpose of providing utility services. Except as otherwise approved by the Design Review Committee, all utilities within such easements shall be installed underground. By virtue of the above-described easements, it shall be expressly permissible for the Declarant/Developer, utility company or other supplier or service provider, with respect to the portions of the property so encumbered to erect and maintain pipes, manholes, pumps, and other necessary equipment and facilities; cut and remove any trees, bushes, shrubs; grade, excavate or fill; or, take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems. No building, fence or structure shall be erected or pavement placed within any recorded utility easement, nor any trees or shrubs planted in such easement without the prior approval of the Design Review Committee.
- 5.14 Fences. No fence, wall, hedge or mass planting shall be erected, installed or permitted to remain without prior written approval of the Design Review Committee. All fences and walls shall be landscaped according to specifications approved by Design Review Committee.
- 5.15 Exterior Lighting. All exterior lighting of any nature on any Parcel shall be designed, erected, altered and maintained in accordance with plans and specifications approved by the Design Review Committee. Exterior lighting on all Parcels shall be limited to signs and security and safety illumination of driveways, parking lots, walks, building entrances, loading and service areas and exterior lighting of overall building surfaces. In addition, all exterior lighting shall:
- A. Ensure it is designed and installed to maintain adequate lighting levels on site;
 - B. Assure that excessive light spillage and glare are not directed at adjacent lands, neighboring areas, and motorists;
 - C. Curtail light pollution, reduce skyglow, and preserve the nighttime environment for the enjoyment of residents and visitors;
 - D. Conserve energy and resources to the greatest extent possible;
 - E. Provide security for persons and land
 - F. Contain shielding with full cut-off features generally consistent with the examples shown in **Exhibit B**;

- G. All exterior luminaries, including security lighting, shall be full cut-off fixtures that are directed downward; and
- H. In no case shall lighting be directed above a horizontal plane through the lighting fixture.

5.16 Maintenance of Building and Landscaped Areas.

- A. Each Owner of any Parcel shall keep all improvements thereon in a safe, clean, maintained, neat condition and shall comply in all reports, with all governmental statutes, ordinances, regulations and health, police and fire requirements. Each such Owner shall remove at its own expense, on a regular basis, any rubbish or trash of any type which may accumulate on its Parcel.
- B. Rubbish, trash, garbage or other waste shall be kept only in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Rubbish and trash shall not be permitted to accumulate or be disposed of on the Property by burning or burial.
- C. All signs permitted will be maintained in a neat and orderly manner and repainted or repaired promptly as required.
- D. All paved areas, driveways and concrete aprons on a Parcel shall be kept in good repair, and swept clean from dirt and silt. Broken or cracked curbing shall be replaced as required.
- E. All steep banks or slopes shall be maintained with suitable grasses, trees and shrubs to prevent erosion, exposure of dirt and clay, and an unsightly appearance. Where grass is used to control erosion on a steep bank or slope, such grass shall be planted and maintained so as not to exceed a height of twelve (12") inches.
- F. No improvement on any Parcel shall be permitted by the Owner of such Parcel to fall into such disrepair, and each such improvement shall at all times be kept in good condition and repair, properly maintained and adequately painted or otherwise finished.
- G. All planted grasses, trees, shrubs or other plantings shall consistently be maintained in a neat, orderly and healthy condition. All plantings and grass shall be kept free of weeds and debris, and shall be adequately fertilized and maintained. A maintenance program must be established and approved by the Design Review Committee.
- H. If any Parcel or landscaped area is not maintained by the Owner in a neat, safe, clean condition, the Developer or Design Review Committee may give the Owner of such Parcel notice of such failure, setting forth in what respects such Owner has failed to maintain its buildings and improvements and the Owner shall have thirty (30) days from the receipt of such notice to correct the deficiencies. In the event the Owner shall fail to correct the deficiencies within the thirty (30) day time period, the Developer or Design Review Committee shall have the option to proceed with such maintenance. Costs incurred by the Developer or Design Review Committee relative to such

maintenance shall be paid by the Owner. Costs for the maintenance of any Parcel or landscaped area by the Owner shall constitute a lien against the Parcel, which lien shall include all collection costs, including but not limited to attorneys' fees.

- 5.17 Maintenance. There is hereby reserved for the benefit of the Developer, and agents and employees of the Developer, the perpetual right to enter upon any portion of the Property for the purpose of mowing, removing, clearing, cutting or pruning grass, underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, safety and appearance within the park, provided that such right shall not impose any duty or obligation upon the Developer to perform such actions.
- 5.18 Police Power Easement. Police, fire, water, health and other authorized county or public officials, employees and vehicles shall have the right of unrestricted ingress and egress to the Property, and any portion thereof, for the performance of their official duties as required by local, state or federal law.
- 5.19 Height Restrictions. No building or appurtenance, including but not limited to water tower, standpipes, penthouses, elevators or elevator equipment, stairways, ventilating fans or similar equipment required to operate and maintain any building, fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts, or flagpoles shall exceed a height of fifty (50) feet above the finished building grade without the prior approval of the Design Review Committee.
- 5.20 Building Materials and Design.
- A. Exterior Walls—The exterior walls of all buildings shall be of such materials, design and colors as may be approved by the Design Review Committee. Metal siding shall not be permitted unless specifically approved by Design Review Committee and in no case shall it be used for a wall facing the roadway. All concrete masonry unites or concrete panels shall be finished in stone, textured, or coated in a manner to be approved by Design Review Committee.
 - B. Canopies—No canopies with visible wall-hangers will be permitted. Design of canopies shall be in keeping with the design of buildings including color coordination, and must be approved by the Design Review Committee.
 - C. Coverage—Unless otherwise approved by Design Review Committee, the ratio of building square footage to the total square footage of any Parcel within the Property shall not exceed forty (40%) percent.
- 5.21 Setbacks. No building or structure or any part thereof from or projection therefrom, shall be erected nearer than one hundred (100') feet from the centerline of the public road from which primary access is granted to the Parcel, nor nearer than seventy-five (75') feet from any other public road within the Property, nor nearer than fifty (50') feet from any interior side or rear property line.
- 5.22 Construction of Paths Adjacent to Roadways. Together with any roadway

to be dedicated to the public that is constructed within the Property, the party constructing such roadway shall construct adjacent thereto a sidewalk, bike path, pedestrian path, or other walking trail, as determined by such constructing party and approved by the Design Review Committee. Such sidewalk, bike path, pedestrian path, or other walking trail shall be dedicated to the public together with the roadway.

- 5.23 Public Access to "Green Space". With respect to any developed portion of the Park that (i) is dedicated "Green Space" by the Declarant, subject to the approval of the Design Review Committee, and (ii) is either adjacent to a roadway dedicated to the public or connected to a public right-of-way or other "Green Space" by a trail or other walkway installed by the Declarant, steps shall be taken to so designate such "Green Space" as available for public access.

ARTICLE VI DESIGN REVIEW COMMITTEE

- 6.1 Plans and specifications for all buildings, structure and improvements on the Parcels shall be submitted to the Design Review Committee or its duly authorized agent, prior to commencement of any construction, for written approval as to the quality of materials, harmony of external design and size, and location with respect to topography and finished grade elevation. All Park development will comply with such rules and regulations established in this Declaration or further established and amended by the Design Review Committee. The Design Review Committee shall be responsible for approving all plans, specifications, requests to remodel or alter, or otherwise construct improvements on Parcels. No building, landscaping or other improvement shall be altered, placed or erected on any Parcel without approval from the Design Review Committee. Routine maintenance of existing facilities, however, shall not require approval.
- 6.2 Although the Developer is granted by this Declaration certain discretion and rights of approval, disapproval and interpretation, the Owners and Tenants of Parcels at the Park do hereby for themselves, their heirs, personal representatives, successors and assigns, and their successors in the ownership of such Parcels, release and forever discharge the Declarant/Developer's successors and assigns and the Design Review Committee from any claims they may have against such parties assigns arising out of the exercise by them of such discretion and such rights of approval, disapproval and interpretation and/or to exercise such discretion, rights of approval, disapproval and interpretation.
- 6.3 Approval of a majority of the members of the Design Review Committee shall constitute approval of the Design Review Committee, provided however, with respect to the following approvals, Design Review Committee approval shall not be granted unless the representative of the Town of Blythewood votes in favor of the proposal:

A. Approval of more than one access point on the portion of Blythewood Road located to the west of the property currently occupied by the Fairfield Electric Cooperative Headquarters.

B. A reduction in the total overall portion of the Park dedicated to “Green Space” to less than the portion reflected on the Conceptual Master Plan Blythewood Industrial Sites prepared by Thomas & Hutton dated February 2019, provided however, “Green Space” may be moved within the Park from areas currently shown on the referenced Conceptual Master Plan as long as the total overall portion dedicated to “Green Space” is not reduced.

C. Approval of a retail tenant occupying 50,000 square feet or more.

D. Approval of rail service within the Park to any occupant employing one of the following uses:

1. Steel or other metal manufacturing
2. Steel or other metal fabrication
3. Tire manufacturing
4. Oil and Petroleum products
5. Food rendering
6. Recycling
7. Paper Manufacturing
8. Rubber Manufacturing
9. Steel Foundry
10. Wastewater Treatment

Notwithstanding the foregoing, if at any time all of the Property subject to this Declaration is annexed into the Town of Blythewood, the requirement of approval by the Town of Blythewood representative shall no longer be effective. Prior to such time as all of the Property subject to this Declaration is annexed into the Town of Blythewood, this Declaration may not be amended to modify the provisions of this Section 6.3, unless the Town of Blythewood is a party to such recorded amendment for the purpose of consenting thereto.

ARTICLE VII AMENDMENTS

- 7.1 By the Declarant. The Declarant may amend this Declaration with the consent of all the Owners or without the consent of any Owner (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in

conflict therewith; or (ii) if any such amendment is to include, by Declaration of Inclusion, Additional Property or any portion thereof, from time to time, to the terms and provisions of this Declaration.

- 7.2 Recording. No amendments to this Declaration shall be effective unless and until recorded in the Office of the Register of Deeds for Richland County, South Carolina.

ARTICLE VIII OWNERS' ASSOCIATION

- 8.1 Association Powers and Duties. Once established by the Developer, the Association shall provide for the effective and efficient administration of this Declaration, maintenance and upkeep of the Common Areas, and shall assist in maintaining the safety, cleanliness, appearance and value of the Property. Association shall manage and maintain the Common Areas owned by the Developer and, to the extent delegated to do so by Developer, administer and enforce all provisions of this Declaration, and is empowered to levy and collect assessments as needed to perform Association functions. It shall have all necessary powers to undertake and perform all acts necessary and incident to its duties in accordance with this Declaration and the duties set forth, consistent herewith, in the articles of incorporation and bylaws of the Association. All Owners shall be members of the Association. Notwithstanding anything in this Declaration to the contrary, Developer and Association reserve the right to dedicate all or a portion of the Common Areas to an appropriate governmental entity.
- 8.2 Association Membership and Voting Rights. Every Owner shall be a member of the Association. Any Owner may grant a proxy to another party pursuant to which such party may exercise the Owner's voting rights. Membership shall be appurtenant to and shall pass with the title to each Parcel and it may not be separated from the ownership thereof. The number of votes to which each member of the Association is entitled shall be determined as follows:
- A. The Owner (member) shall be entitled to one vote for each whole acre of its Parcel plus one additional vote for any remaining portion of a Parcel greater than one-half acre provided that in no event shall an Owner be entitled to less than one vote.
 - B. When more than one party or entity holds an interest in a Parcel, the one vote for each acre owned, as determined above, shall be exercised as its Owners, collectively determined. The foregoing shall also apply in the event a building or buildings are developed or owned under the condominium form of ownership.
 - C. The articles of incorporation and the bylaws of the Association may make further provisions and interpretations consistent herewith, concerning membership and voting.
- 8.3 Creation of Lien and Obligation. Developer and its successors and assigns

for each Parcel owned within the Property, hereby covenants, and each purchaser of a Parcel by acceptance of a deed or other instrument of conveyance is deemed to covenant and agree, to promptly pay to the Association all regular assessments and any special assessments when due. Assessments shall be set and collected from time to time as hereinafter provided and shall be paid in advance on a schedule to be set by the Association Board of Directors. Each assessment, together with any interest, costs of collection and reasonable attorneys' fees shall also be the personal obligation of each party or entity that was the Owner of the assessed Parcel at the time the assessment first became due and payable. The obligation of delinquent assessments shall not pass to an Owner's successor's title unless expressly assumed by the successor; however, the lien thereof against the Parcel shall continue even though ownership has changed. Liens may also be imposed in favor of Developer or the Association for reasonable expenditures required to cure defaults or violations under this Declaration, including but not limited to failure to properly maintain a Parcel as herein required. Developer or the Association, after ten (10) days prior notice (subject to extension for a reasonable period of time if corrective action is begun by an Owner but cannot reasonably be completed within ten (10) days) shall be entitled to take corrective action and the defaulting Owner shall promptly reimburse Developer or Association for the reasonable expenses thereof. In default of reimbursement within twenty (20) days of delivery of notice of amounts due, a Claim of Lien may be filed for such amounts in which event the lien shall cover court costs, expenses and reasonable attorneys' fees involved in enforcement of the lien.

- 8.4 Purpose of Assessments. The assessments shall be levied by the Board of Directors of the Association solely for the purpose of maintenance, improvement, repair and operation of the Association properties, including landscaped entrances, road rights-of-way and drainage systems, a street lighting system and other Common Areas. Assessments by the Association shall be used to support services which the Association is authorized or required to provide, including but not limited to, the payment of taxes and governmental assessments on Common Areas; the purchase of insurance; providing security for the Property; the operation and maintenance of a drainage system and street lights; the construction of Common Area improvements; the enforcement of the provisions of this Declaration; the ownership, operation and maintenance of the road system; the cutting of grass on Association properties; and the payment of the costs to obtain labor, professional services, equipment, materials, management, and supervision necessary to carry out the functions of the Association. Notwithstanding any provision of this Declaration to the contrary, the Association's funds shall not exceed its expected expenses and reasonable reserves to such an extent as to cause the Association to lose its nonprofit status.
- 8.5 Levy of Assessments. The Board of Directors shall annually adopt a budget for funding the Association's activities in furtherance of the purposes set forth herein. Assessments shall be levied annually, and special assessments

for particular purposes and furtherance of the objectives of this Declaration, including emergency repairs and restoration, are also authorized. Assessments shall be levied for the purpose of financing the annual budget of the Association. Annual and special assessments shall be assessed against all Parcels within the Property, on an acreage basis, and shall include lands owned by Developer, except for Common Areas.

The Owner of each Parcel shall pay that Parcel's share of each aggregate annual, and, if imposed, special assessment. This share shall be determined by multiplying the total amount of the assessment by a fraction, the numerator of which is the number of acres and fractional acres in that Parcel, and the denominator of which shall be the total acreage of all Parcels as shown on the site plan for the Property, as amended or modified from time to time. Annual assessments may be on the basis of a calendar year or any other twelve (12) month period as determined by the Board of Directors of the Association. Assessments shall be collected on a quarterly or on an annual basis, as the Board of Directors of the Association may decide.

8.6 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment or installment thereto not paid within thirty (30) days after the due date shall bear interest from the due date at a rate to be fixed from time to time by the Association Board of Directors, but in any event not less than ten percent (10%) per annum or more than eighteen percent (18%) per annum. The Association by action of its Board of Directors is hereby empowered to file a Claim of Lien for delinquent assessments against the affected Parcel and may bring an action at law or in equity against the Owner of the Parcel and/or may foreclose the assessment lien against the Parcel under legal or equitable proceedings in the courts of South Carolina. Recovery shall include expenses, court costs and reasonable attorneys' fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of Common Areas.

8.7 Subordination of Assessment Lien to Mortgages. The liens of the regular and special assessments and all other lien rights provided for herein are declared hereby to be subordinate to the lien of any first mortgage and, where approved by the Developer, any second mortgage, held by an institutional lender on any Parcel. The sale or transfer of any property pursuant to mortgage foreclosure (or deed in lieu thereof) shall extinguish the lien of any assessment or claim which became due prior to the effective date of the sale or transfer, but shall not terminate personal liability of persons or entities liable thereof. The sale or transfer of any lands not pursuant to mortgage foreclosure or proceedings in lieu thereof shall not affect the assessment lien.

ARTICLE IX GENERAL PROVISIONS

9.1 Enforcement. The Declarant/Developer or any Owner shall have the right to

enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Declarant/Developer or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

- 9.2 Severability. Invalidation of any one of the provisions of this Declaration by judgment or court shall in no way affect any other provisions hereof, which shall remain in full force and effect.
- 9.3 Term. The covenants, conditions and restrictions of this Declaration shall run with the land and bind the property for a term of thirty (30) years from the date this Declaration is recorded, and for an additional twenty (20) year period thereafter, unless and until during that twenty (20) year period a majority of the Owners within the Property shall file a statement of termination of this Declaration. Any such termination shall have no effect upon easements granted or reserved herein or pursuant to this Declaration.
- 9.4 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision thereof.
- 9.5 Gender and Number. All pronouns used herein shall be deemed to include the masculine, the feminine, the neuter, the singular and plural, wherever the context requires or permits.
- 9.6 South Carolina Law. This Declaration shall be construed in accordance with the laws of the State of South Carolina.

Signature Page to Follow.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be signed, being the sole owner of the property described in Exhibit A attached hereto as of the time of recording of this Declaration.

Signed, Sealed and Delivered
in the Presence of:

RICHLAND COUNTY, SOUTH CAROLINA

Witness No. 1

By: _____
Name: _____
Title: _____

Witness No. 2

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

ACKNOWLEDGMENT

I, _____, Notary Public, certify that _____, **as**
_____ **of Richland County, South Carolina**, personally came before me this day and
voluntarily executed the foregoing as his/her act and deed.

Witness my hand and official seal,
this the ____ day of _____, 2019.

Notary Public for South Carolina

My Commission Expires _____

EXHIBIT A

PROPERTY

[Insert Legal Description]

EXHIBIT B
LIGHTING EXAMPLES

[Insert]



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Harold (Harry) C. Ward
Home Address: 720 Kilbourne Rd., Columbia, SC 29205
Telephone: (home) 803-256-1241 (work) 803-240-5019
Office Address: 720 Kilbourne Rd., Columbia, SC 29205
Email Address: haroldcward@gmail.com
Educational Background: B.S. Business Administration
Professional Background: Business Management and Financial Services
Male [] Female [] Age: 18-25 [] 26-50 [] Over 50 []

Name of Committee in which interested: LRADAC
Reason for interest: Prior Board Member of LRADAC, 1996-2004. Proud to see wonderful program growth for those in recovery.
Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

Blessed with 34 years Alcohol Sobriety which afforded me an active and productive life. Active in other recovery and drug programs in effort to give back.
Presently serve on any County Committee, Board or Commission? Township Board.
Any other information you wish to give? Former Palmetto Bay Board, 2005-12
Recommended by Council Member(s):
Hours willing to commit each month: As needed by Board and Agency.

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 (Pardon 8-2-17) 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: _____


David Conrad
Applicant's Signature

March 18, 2020
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>3-20-2020</u>	Received by: <u></u>
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: ~~Marvin~~ MARVIN E. ROBINSON JR.
Home Address: 4103 Parkman Drive Columbia SC 29206
Telephone: (home) 864/230-3819 (work) same
Office Address: 1333 Main St Suite 200, Columbia SC 29201
Email Address: MARVIN.ROBINSON@AMERISHANK.COM
Educational Background: BS in Business Admin, The Citadel, 1998
Professional Background: 20+ years in commercial banking
Male Female Age: 18-25 26-50 Over 50
Name of Committee in which interested: JRADAC
Reason for interest: 6 years serving their foundation and short term on their commission for Lexington County
Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:
Same as above. Previously served for Lexington County and recently moved to Columbia
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 much 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.

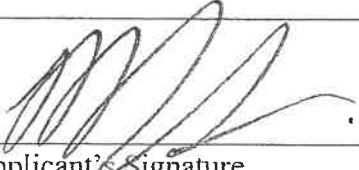
Yes _____ No X

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

8/5/20
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>8/10/2020</u>	Received by: <u>T. Black</u>
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: Andrew R. (Andy) Tolleson, PE, DGE

Home Address: 2309 Rembert Street Columbia SC 29201

Telephone: (home) 803-269-2651 (work) 803-783-9001

Office Address: 305A Stoneridge Drive Columbia SC 20210

Email Address: atolleson@tollesonltd.com

Educational Background: BS and MS in Civil Engineering Design

Professional Background: Program Manager. Zero Claims Record. Strategic Planner. Designer

Male Female

Age: 18-25

26-50

Over 50

Name of Committee in which interested: Hospital Trustee, LRADAC, Airport or Zoning, CMCOG

Reason for interest: Lifetime Richland County and Columbia resident. Business owner and citizen interested in offering my leadership experiences.

Your characteristics/qualifications, which would be an asset to Committee, Board or

Commission: Successful business owner and Engineer of record on major projects. Planner and expert witness.

Professional: Local Business owner with extensive experiences in USA and International.

Presently serve on any County Committee, Board or Commission? **None.**

Any other information you wish to give? Established relationships with Council & County staff.

Recommended by Council Member(s): Hon Paul Livingston

Hours willing to commit each month: Flexible schedule will serve as needed.

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

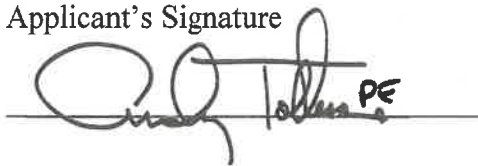
STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

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 : I am owner of Richland County SLBE Certified Consulting Engineering and Construction firm and provide services on County related projects.

Applicant's Signature



Date

Oct 01, 2020

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>10/1/20</u>	Received by:	<u>CHHO</u>
Date Sent to Council:	_____		
Status of Application:	Approved	Denied	On file

2



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Michelle Drayton

Home Address: 504 Fountain Lake Rd Cole 29209

Telephone: (home) 803 238-5063 (work) 978-1848

Office Address: 9023 Garners Ferry Road

Email Address: drayton.michelle@yahoo.com

Educational Background: Masters Degree working on doctorate

Professional Background: Licensed Professional Counselor, Licensed

Male [] Female [] Age: 18-25 [] 26-50 [x] Over 50 [] Addictions Counselor

Name of Committee in which interested: LEADAC

Reason for interest: I am an addictions counselor and they are in my field

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

I have been working with addictions ten plus years. I did my practicum and internship here.

Presently serve on any County Committee, Board or Commission? NO

Any other information you wish to give? n/a

Recommended by Council Member(s): n/a

Hours willing to commit each month: whatever is necessary

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: _____

Richelle Dreyer 4-8-20
Applicant's Signature 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.

2	Staff Use Only	
	Date Received: <u>4-8-2020</u>	Received by: <u><i>[Signature]</i></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: Maranta A. White
Home Address: 2052 Blythewood Crossing Ln Apt 1936 Blythewood, SC 2910
Telephone: (home) 980.215.5580 (work) 980.258.4412
Office Address: 141 Killian Commons Dr Columbia, SC 29203
Email Address: maranta.white@trane-technologies.com
Educational Background: Masters in business - currently pursuing PhD in Business IT
Professional Background: HR Generalist @ trane technologies
Male [] Female [X] Age: 18-25 [] 26-50 [X] Over 50 []
Name of Committee in which interested: Midlands workforce development - center mgmt
Reason for interest: Trane representation can have a lasting impact that aligns with our goals + values and that of the board.
Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:
Trane representation, HR background, business background, diversity, education, influence in the community + trane environment.
Presently serve on any County Committee, Board or Commission? yes, Fast Forward
Any other information you wish to give?
Recommended by Council Member(s):
Hours willing to commit each month: 12 hours or more if needed up to 20 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.

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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 MAW

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 MAW

If so, describe: _____

[Signature]
Applicant's Signature

10/29/2020
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>11/9/20</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

2

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APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Sheena Thompson

Home Address: 1133 Rabon Pond Drive, Columbia, SC 29223

Telephone: (home) 803-917-9184 (work) 803-722-1448

Office Address: 2971 Shop Road, Columbia, SC 29209

Email Address: sheena.thompson@chinajushiusa.com

Educational Background: Masters - Business Administration

Professional Background: Human Resources

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Policies and Procedures - MIDLANDS WORKFORCE DEV. BOARD.

Reason for interest: Impact change and development for the workforce of the Midlands

Your characteristics/qualifications, which would be an asset to Committee, Board or

Commission:

Vision and Leadership, Diligence, Collegiality, Discretion, Passion

Stewardship

Presently serve on any County Committee, Board or Commission? N/A

Any other information you wish to give? Experience in Project Management and Budgeting

Recommended by Council Member(s): N/A

Hours willing to commit each month: Flexible

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 **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: N/A

Sheena Thompson 10/27/2020
Applicant's Signature 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>11/9/20</u>	Received by: <u>chuw</u>
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	

Richland County Council Request for Action

Subject:

Move to remit the \$300,000 private donation (negotiated by Councilwoman Dalhi Myers and Councilman Chip Jackson) earmarked for the Taylors Community to Richland County Parks & Recreation under an IGA, to be designated as funding for the Taylor's Community Park, promised and fully funded, as part of an Economic Development plan for the Reign Community on Shop Road before December 31, 2020. These funds were donated beginning in 2017 prior to the construction of the 2,000 bed new Reign Community, which is now complete. RC staff has not begun planning or construction on the fully funded park

Notes:

November 19, 2020 – The A&F Committee recommended to instruct the Legal Department to advise Council on what steps need to be taken to deliver the park or the \$300,000 to the Taylors Community, which was negotiated on their behalf.

December 8, 2020 – Council deferred this item until the December 15th Council meeting to allow the Legal Department to bring back a suggested way forward.

December 15, 2020 – Council deferred this until the next regularly schedule Council meeting of 2021.



Agenda Briefing

Prepared by:	Clayton Voignier	Title:	Director
Department:	Community Planning & Development	Division:	Planning Services
Date Prepared:	October 30, 2020	Meeting Date:	November 19, 2020
Legal Review	Elizabeth McLean via email	Date:	November 06, 2020
Budget Review	James Hayes via email	Date:	November 05, 2020
Finance Review	Stacey Hamm via email	Date:	November 05, 2020
Approved for consideration:	Assistant County Administrator	Ashley M. Powell, Assoc. AIA, AICP	
Committee	Administration & Finance		
Subject:	Taylors Community Park Funds		

STAFF’S RECOMMENDED ACTION:

Staff does not have a recommendation for this item; Council discretion.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?		Yes	<input checked="" type="checkbox"/>	No
If no, is a budget amendment necessary?		Yes	<input checked="" type="checkbox"/>	No

There are currently no funds dedicated to this project in the department’s budget. An amendment would not be necessary to facilitate the request where, if approved per the requested motion, the funds would be allocated to Richland County Recreation Commission for completion of the project.

The \$300,000 private donation should generally cover planning, construction, and other costs associated with a park’s development. Additional costs for recurring maintenance to the park would occur. Normally, RCRC has assumed maintenance costs per a Memorandum of Understanding (MOU). Likewise, depending on the site for the park, there may be costs associated with property acquisition, whereby the \$300,000 may not be adequate to cover all development expenses and additional funds would be required.

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

On June 19, 2018, the County entered into an Infrastructure Credit Agreement with Project Reign (Reign Living, LLC) for the purpose of assisting in paying the costs of certain infrastructure related to the establishment of a commercial apartment complex within the County. Additionally, there was a secondary agreement around a private donation by which there were to be three payments of \$100,000 due in January starting in 2019, of which two of three have been received. The payments were posted to Miscellaneous Revenue in Neighborhood Redevelopment (1210650000). The nature of the agreement made to facilitate transfer of funds to the County for this park project remains unclear.

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

REGULATORY COMPLIANCE:

MOTION OF ORIGIN:

Move to remit the \$300,000 private donation (negotiated by Councilwoman Dalhi Myers and Councilman Chip Jackson) earmarked for the Taylors Community to Richland County Parks & Recreation under an IGA, to be designated as funding for the Taylor’s Community Park, promised and fully funded, as part of an Economic Development plan for the Reign Community on Shop Road before December 31, 2020. These funds were donated beginning in 2017 prior to the construction of the 2,000 bed new Reign Community, which is now complete. RC staff has not begun planning or construction on the fully funded park.

Council Member	Dalhi Myers, District 10
Meeting	Regular Called Meeting
Date	October 6, 2020

STRATEGIC & GENERATIVE DISCUSSION:

Staff was unable to locate Council action that either acknowledged the private donation or gave staff subsequent direction to move this project forward.

Richland County Recreation Commission (RCRC) generally implements park projects undertaken by the County. Staff is currently hosting discussions with RCRC on facilitating the development of parks at various locations in the County through MOUs for each park. As presented in the motion, staff suggests following this same process, i.e., establishing an MOU rather than an IGA to facilitate the development of any requested park.

Additional information is required for adequately facilitating any request to construct a park, such as site location, features, amenities, and programming elements. As such, the timeframe in completing this request by the end of the calendar year, per the original motion, may not be feasible, as staff would need additional time to determine these details and obtain approvals for any agreement drafted.

The current amount of funding indicated would generally be sufficient to construct a park, depending on the scope of amenities and/or facilities included. Staff is unaware of any identified site, and as such, a site would need to be determined as part of the construction process. Depending on the site chosen, there is the likelihood of incurring acquisition costs. Any acquisition costs would likely diminish the available funding to construct a suitable park, requiring supplemental funds from an additional source.

ADDITIONAL COMMENTS FOR CONSIDERATION:

ATTACHMENTS:

1. October 6, 2020 Council Meeting Minutes
2. March 5, 2020 Email Correspondence Re: Follow up-Housing Concerns
3. February 26, 2020 Memorandum Re: Request for Information Atlas Road Park and Taylors Community Park
4. January 15, 2019 Correspondence and Copy of Check from William R. Johnson
5. Reign Living LLC Infrastructure Credit Agreement

22. **MOTION PERIOD**

- a. I move to restore \$37,561 to the Richland County Conservation Program Historic Preservation Grants from the Richland County Conservation Commission Reserve Account to be allocated in the FY21 grants program [TERRACIO] – This item was referred to A&F Committee.
- b. A Resolution in support of F-35 Joint Strike Fighter Basing at McEntire Joint National Guard Base [NEWTON] – Ms. Newton moved, seconded by Mr. Manning, to unanimously adopt the resolution and present it at the October 20th Council meeting.

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

Not Present: Kennedy

The vote in favor was unanimous.

- c. Move to remit the \$300,000 private donation (negotiated by Councilwoman Dalhi Myers and Councilman Chip Jackson) earmarked for the Taylors Community to Richland County Parks & Recreation under an IGA, to be designated as funding for the Taylors Community Park, promised and fully funded, as part of an Economic Development plan for the Reign Community on Shop Road before December 31, 2020. These funds were donated beginning in 2017 prior to the construction of the 2,000 bed new Reign Community, which is now complete. RC staff has not begun planning or construction on the fully funded park [MYERS] – This item was referred to the A&F Committee.
- d. Move to engage a third-party design-build company to begin work on the \$2M SE Richland County multi-purpose facility, as approved by Council in 2018. The funds were earmarked and approved, but RC staff has not undertaken any planning or construction of the Council-approved project by the end of November 2020 [MYERS] – This item was referred to the A&F Committee.
- e. Move to engage a third-party consultant to undertake work on Richland Renaissance, which was approved 11-0 by this Council in early 2019. Staff has chosen to postpone this Council-approved project, which would alleviate serious facility constraints and result in savings over time, as the County would not spend money on short-term repairs, but on long-term needed facilities planning and construction [MYERS] – This item was referred to the Richland Renaissance Ad Hoc Committee.
- f. I move to amend the Public Nuisance Ordinance to define “Public Places/Establishments” to include restaurants, taverns, lodges, parking lots, and public places where children or students attend and/or normally congregate [DICKERSON] – This item was referred to the Rules & Appointments Committee.

23. **ADJOURNMENT** – The meeting adjourned at approximately 9:00 PM.

From: [ASHLEY POWELL](#)
To: [LEONARDO BROWN](#)
Subject: FW: Follow up-Housing Concerns
Date: Thursday, March 5, 2020 1:12:32 PM
Attachments: [Memo Request for Information Atlas Road and Taylor Community Parks Feb 26 2020.docx](#)
[Memo Request for Information Atlas Road and Taylor Community Parks Feb 26 2020.pdf](#)
[Memo Attachments reduced pages.pdf](#)

Good afternoon, Administrator Brown.

Please see attached and below relative to Council action on the parks Councilwoman Myers referenced in her correspondence.

Thank you,

Ashley M. Powell, Assoc. AIA, AICP

Assistant County Administrator
Richland County Government
County Administrator's Office
803-576-3584
powell.ashley@richlandcountysc.gov

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From: CLAYTON VOIGNIER <VOIGNIER.CLAYTON@richlandcountysc.gov>
Sent: Thursday, February 27, 2020 4:19 PM
To: ASHLEY POWELL <POWELL.ASHLEY@richlandcountysc.gov>
Subject: RE: Follow up-Housing Concerns

Good afternoon, Ashley,

After some considerable research, my staff were not able to find any Council or staff action related to the Taylor's Park project. Please see the attached memo with supporting documentation regarding the timeline of Council and staff action for Atlas Road Park.

The current status of the environmental assessment is that we are awaiting the acceptance of the bid by Summit Engineering.

Also, although staff did conduct an RFQ for design work, no vendors were qualified because the current plan is for RCRC to develop their own designs and invoice us for the work. The land is owned by the neighborhood association.

Please let me know if you have any questions or concerns.

Thank you,

Clayton Voignier, CCEP, CGAP

Director
Richland County Government
Community Planning & Development
803-576-2168
voignier.clayton@richlandcountysc.gov

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From: ASHLEY POWELL <POWELL.ASHLEY@richlandcountysc.gov>
Sent: Wednesday, February 19, 2020 5:19 PM
To: CLAYTON VOIGNIER <VOIGNIER.CLAYTON@richlandcountysc.gov>
Subject: FW: Follow up-Housing Concerns

Good evening, Clayton.

Please have Lauren, or whomever you deem appropriate, perform the requisite research to provide a comprehensive timeline of Council action on the two parks listed in Councilwoman Myers' below correspondence.

I am particularly interested in the following:

- If either of these projects were vetted by full Council;
- When; and
- What the terms/specifics of the action taken by Council were

It would be extremely helpful if staff could build in any staff action taken on this same timeline but given that you and several key members of your team are relatively new, I recognize that it might be difficult to do that and/or there may be some gaps in our knowledge. That is fine.

I would like this as soon as possible. Please let me know what would be a reasonable expectation as far as turnaround on this deliverable.

Thank you,

Ashley M. Powell, Assoc. AIA, AICP

Assistant County Administrator
Richland County Government
County Administrator's Office
803-576-3584
powell.ashley@richlandcountysc.gov

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From: ASHLEY POWELL
Sent: Thursday, January 30, 2020 10:52 AM
To: 'dalhi31@gmail.com' <dalhi31@gmail.com>; CLAYTON VOIGNIER <VOIGNIER.CLAYTON@richlandcountysc.gov>
Cc: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>; Dalhi Myers <dmyers@richlandcountysc.gov>
Subject: RE: Follow up-Housing Concerns

Good morning, Vice Chair Myers.

In response to the below:

1. If my team inadvertently missed someone we said we'd contact, I take full responsibility for our having done so and I would like to take steps to rectify this immediately. To do so, I will need to know to whom are you referring when you say one has yet to be contacted.
2. As a part of the restructured SFHRP under myself and Director Voignier, customer satisfaction is factored into contractors being able to bid for and work on additional jobs. As such, we have been tracking this since Council was last briefed and I have yet to see less than a four (4) out of five (5) in customer satisfaction. If you would please provide names of individuals with concerns, I would like to do some research in advance of our meeting, to make the most efficient use of all of our time, and personally follow up with these individuals.
3. It was my understanding from our last conversation that we were to pursue an MOU with RCRC that would allow them to take the lead on our park planning. Mine and Ms. Watson's teams are meeting on February 4 for this reason. If you prefer to pursue an outside entity specialized in park planning, we can certainly discuss it, propose options and put it before Council.
4. I am unaware of any facility associated with the Historic Trail beyond the trail itself. Per my most recent update from Budget on 11.18.2019, there is funding in the amount of \$1,156,177 for the Historical Trail and an additional \$2M, originally approved by Council in FY18 for a multi-purpose building, which will remit back to the H-Tax Fund Balance.

I am happy to meet and discuss the above in greater detail but thought some context might be helpful in preparing for further discussion(s).

Prior to Thursday, February 6, my morning availability is as follows below:

- Tuesday, February 4, 2020; 8:30am – 10:00am
- Wednesday, February 5, 2020; 8:30am – 11:00am

Looking at Director Voignier's calendar, Wednesday would work better for him but I believe he could make Tuesday work.

Please let us know if any of the above dates/times work for you.

Administrator Brown, if your schedule allows, I think it would be helpful for you to join us as well.

As an aside, myself and other staff are having trouble getting email replies through to your 'dmyers@myersbusinesslawyers.com' account. I wanted to mention this in case you're not getting responses on some things as that may be why.

Thank you,

Ashley M. Powell, Assoc. AIA, AICP

Assistant County Administrator
Richland County Government
County Administrator's Office
powell.ashley@richlandcountysc.gov

P 803-576-3584 **M** 803-636-6093 **F** 803-576-2137

2020 Hampton St.
P.O. Box 192
Columbia, SC 29202
richlandcountysc.gov

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-----Original Message-----

From: Dalhi Myers <dalhi31@gmail.com> On Behalf Of Dalhi Myers
Sent: Thursday, January 30, 2020 7:59 AM
To: ASHLEY POWELL <POWELL.ASHLEY@richlandcountysc.gov>; CLAYTON VOIGNIER <VOIGNIER.CLAYTON@richlandcountysc.gov>
Cc: LEONARDO BROWN <BROWN.LEONARDO@richlandcountysc.gov>; Dalhi Myers <dmyers@richlandcountysc.gov>
Subject: Follow up-Housing Concerns

Good morning, ACA Powell and Director Voignier. Hope all is well. I wanted to get on your calendars next week to follow up on several items:

1. Seniors you were to contact about their need for assistance with home repairs (3- one says she still has not been contacted);
2. The quality of flood repairs and concerns being raised by flood victims (some of whom have reported repairs with second hand/reclaimed materials);
3. Potential to

use third party management company to undertake planning work on Atlas Road Community Park and/or Taylors Community Park; and 4. Lower Richland Historic Trail facility and funds.

Thanks so much. Early mornings are best for me. It would be helpful if we could meet before Thursday.

Thanks so much.

Be well.

Dalhi

Sent from my wireless handheld device. Please excuse any grammatical errors. DM

**RICHLAND COUNTY
COMMUNITY PLANNING & DEVELOPMENT**

2020 Hampton Street
Columbia, SC 29204



MEMORANDUM

To Clayton Voignier, Director, Community Planning & Development Department

CC Tommy Delage, Planning Services Manager; Denise Teasdell, Manager of Housing

From Brian Crooks, Comprehensive Planner; Jocelyn Jennings, Community Development Coordinator

Date February 26, 2020

Subject Request for Information: Atlas Road Park and Taylors Community Park

This memorandum serves as a response to the request for information regarding the Atlas Road Community Park and Taylors Community Park. Per the request, staff has put together a timeline of Council action regarding the two projects. The timeline includes the dates Council took up items, at Committee or full Council, that involve the park projects and any actions on those items. Additionally, staff actions related to the projects are interspersed within the timeline. **In researching actions and information on the two projects, staff did not find information regarding the Taylors Community Park, either by Council or staff. As such, the only information included in the timeline involves the Atlas Road Park.**

ATLAS ROAD PARK – *Timeline of Actions*

- March 3, 2015 – Community Correspondence (Letter) [Attachment A]
 - Letter from Atlas Road Community Organization to K. Washington requesting use as a playground and mailing address. Additionally, the letter requests to have the unsafe housing lien removed, otherwise, would negotiate a cost up to half to be paid.
 - NIP staff were included on correspondence to K. Washington.
- April 7, 2015 – Council Regular Session Meeting [Attachment B]
 - Motion by K. Washington
 - *To have Richland County remove the lien off of the property located at 2045 Smith St (TMS R13516-03-21) contingent on the property owner donating the land to the Atlas Road Community Organization.*
 - Item was sent to the D&S Committee.
- April 22, 2015 – Staff Correspondence (Email)
 - NIP staff stated they were coordinating property transfer from previous ownership to Atlas Road Community Organization when asked by CP&D Director.
- April 28, 2015 – Development & Services Committee Meeting [Attachment C]
 - Motion by N. Jackson, Seconded by B. Malinowski
 - *Forward to Council with a recommendation to have Richland County remove the lien off of the property located at 2045 Smith St (TMS 13516-03-21) contingent on the property owner donating the land to the Atlas Road Community Organization.*
 - Placed on consent agenda for upcoming meeting.

- May 5, 2015 – Council Regular Session Meeting [Attachment D]
 - Motion approved under Consent as presented from Committee to have the lien removed.
 - Action Required: Staff will develop and present a policy to Council to address future requests for removing liens off of property in a similar manner for their consideration – Legal, Building Services, Finance, Administration.

- October 12, 2015 – Council Regular Session Meeting [Attachment E]
 - Motion by K. Washington
 - *To have Richland County remove the lien off of the property located at 1420 Joe Frazier Court contingent on the property owner donating the land to the Atlas Road Community Organization.*
 - The item was referred to the D&S Committee.

- October 27, 2015 – Development & Services Committee Meeting [Attachment F]
 - At the October 12, 2015 Council meeting, motion by K. Washington
 - *To have Richland County remove the lien off of the property located at 1420 Joe Frazier Court contingent on the property owner donating the land to the Atlas Road Community Organization*
 - B. Malinowski moved, seconded by J.A. Dixon to defer the item until the November committee meeting for additional information. Unanimous vote in favor.

- November 24, 2015 – Development & Services Committee Meeting [Attachment G]
 - D&S Committee forwarded the motion as presented from the October 12 Council meeting and October 27 Committee meeting to Council without a recommendation.

- December 1, 2015 – Council Regular Session Meeting [Attachment H]
 - K. Washington, seconded by N. Jackson, moved *to approve removing the lien from the property.*
 - J.A. Dixon, seconded by J. Dickerson, moved *to defer this item until the December 8 Council meeting.*
 - Vote to defer was approved.
 - K. Washington requested the ROA for the previous property adjacent to 1420 Joe Frazier Court.

- December 8, 2015 – Special Called Meeting [Attachment I & J]
 - Council approved removing the lien off of the property located at 1420 Joe Frazier Court (TMS R13516-03-03).
 - Vote to reconsider failed.

- June 7, 2018 – Special Called Meeting (Budget 2nd Reading Public Hearing) [Attachment K]
 - Atlas Road Community Park listed under Item #46 by D. Myers to allocated \$5,000 to Atlas Road Community Organization from the Neighborhood Redevelopment fund balance

- June 14, 2018 - Special Called Meeting (Budget 2nd Reading) [Attachment L]
 - Neighborhood Redevelopment Motions/Items; Items 34-44
 - *Item #41 - Motion by D. Myers to allocate Neighborhood Redevelopment fund balance to award Atlas Road Community \$5,000 for a park*
 - Staff noted that Atlas Road Community Organization received an application for \$1,500 and was funding through the Neighborhood Matching Grant program; the funding was at odds with the motion by D. Myers.
 - D. Myers stated that the community organization was working with the planning department on a park, where they have their own land. The money would be to help fund development.
 - A substitute motion, which was approved, was to provide \$1,500 for the Neighborhood Matching Grant.



- *Item #41 – Motion by J. Manning, Seconded by S. Rose, to provide \$3,500 to Atlas Road Community from the Neighborhood Redevelopment fund balance*
 - J. Manning notes the new motion is to provide funding separately from NMG funds for the park project, as was stated by D. Myers previously.
 - After some discussion on the necessity and circumstances of the project, a substitute motion was made by D. Myers, seconded by P. Livingston, *to revisit the Atlas Road community park issue when Ms. Hegler and [D. Myers] can come back to Council with more definitive information and a specific request from the normal, standard budget.*
 - Motion passed unanimously.
- June 21, 2018 – Special Called Meeting (Budget 3rd Reading) [Attachment M]
 - Motion by D. Myers
 - *To allocate Neighborhood Redevelopment fund balance to award Atlas Road Community \$5,000.*
 - Community Development office should return to council with a plan for the Atlas Road park issue.
 - The motion approved only included funding up to \$1,500 under Neighborhood Matching Grant, based upon the previous meeting’s motions.
- June 26, 2018 – Administration & Finance Committee [Attachment N]
 - N. Jackson, seconded by D. Myers, moved to forward with a recommendation FY18-19 Annual Action Plan budgets for the CDBG and HOME Investment Partnership federal funds.
 - Included within the requested CDBG funds is \$50,000 for a District 10 Park
- July 10, 2018 – Special Called Meeting [Attachment O]
 - P. Livingston stated the committee (A&F) recommended approval of this item. Vote in favor was unanimous.
 - Included the allocation of \$50,000 in CDBG funds for a District 10 Park.
- August 6, 2018 – Staff Correspondence (Email) [Attachment P]
 - Email correspondence between CP&D Director and Community Development Manager discussing proposed sketch by Atlas Road Community Organization president/leader.
 - Discussion provides general background on the project, including potential timeframe based upon available funding and scope.
 - Correspondence shows verification that park area qualified as LMI under HUD guidelines for CDBG funding.
- October 9, 2018 – Staff Correspondence (Email)
 - Discussion of including RCRC as a partner for implementing project.
- November 21, 2018 through December 20, 2018 – Request for Qualifications for Environmental Assessment
 - Solicitation # RC-125-Q-2019
 - Sought qualifications for services related to environmental assessments for project utilizing CDBG funding.
 - Scope included assessments for the Atlas Road Park project
- January 9, 2019 – Procurement Qualifies vendors from RFQ for EAs
 - Procurement qualified three vendors as eligible to submit for the requested EAs.
- February 12, 2019 through March 13, 2019 – Request for Qualification for Atlas Road Park Design
 - Solicitation # RC-139-Q-2019
 - Sought qualifications from design firms for a new community park funded by CDBG



- Scope included evaluation of site conditions and design services, including all construction documents needed
- July 9, 2019 – Special Called Meeting [Attachment Q]
 - D. Myers, seconded by J. Dickerson, moved to *approve this item*.
 - Item 21b, FY2019-2020 Annual Action Plan Budget for CDBG and HOME.
 - Included within the budget was \$100,000 for a District 10 Atlas Road Park Construction Phase II.
- August 23, 2019 – Community Development meeting with RCRC
- August 23, 2019 through September 30, 2019 – Staff Correspondence (Email)
 - Community Development staff thanked RCRC for the meeting on August 23.
 - Community Development staff requested from RCRC any information they had regarding the park.
 - Community Development staff provided a draft predevelopment/design and construction timeline for RCRC
 - RCRC agreed via email to timeline
- October 4, 2019 – Staff Correspondence (Email)
 - Community Development staff sent request to procurement to solicit a bid from Summit Engineering to provide an Environmental Site Assessment for the park location at 2045 Smith Street, Columbia, SC 29205
 - CP&D executed a requisition from \$15,000 and attached a scope of work
- February 4, 2020 – CP&D Meeting with RCRC
 - Discussion during meeting included Atlas Road park, referencing environmental assessments and type and level of funding available for activities

ATTACHMENTS

- ➔ Attachment A – Community Letter to K. Washington
- ➔ Attachment B – April 7, 2015 Council Meeting ROA
- ➔ Attachment C – April 28, 2015 D&S Committee Minutes
- ➔ Attachment D – May 5, 2015 Council Meeting ROA
- ➔ Attachment E – October 12, 2015 Council Meeting ROA
- ➔ Attachment F – October 27, 2015 D&S Committee Minutes
- ➔ Attachment G – November 24, 2015 D&S Committee ROA
- ➔ Attachment H – December 1, 2015 Council Meeting Minutes
- ➔ Attachment I – December 8, 2015 Council Meeting Minutes
- ➔ Attachment J – December 8, 2015 Council Meeting ROA
- ➔ Attachment K – June 7, 2018 2nd Reading Budget Public Hearing Agenda
- ➔ Attachment L – June 14, 2018 2nd Reading Budget Council Meeting Minutes
- ➔ Attachment M – June 21, 2018 3rd Reading Budget Council Meeting Minutes
- ➔ Attachment N – June 26, 2018 A&F Committee Minutes
- ➔ Attachment O – July 10, 2018 Council Meeting Minutes
- ➔ Attachment P – August 6, 2018 Staff Correspondence
- ➔ Attachment Q – July 9, 2019 Council Meeting Minutes

**HAYNSWORTH
SINKLER BOYD**

HAYNSWORTH SINKLER BOYD, P.A.
1201 MAIN STREET, 22ND FLOOR
P. O. BOX 11889 (29211)
COLUMBIA, SOUTH CAROLINA 29201
MAIN 803.779.3080
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www.hsblawfirm.com

WILLIAM R. JOHNSON
DIRECT 803.540.7945
wjohnson@hsblawfirm.com

January 15, 2019

HAND DELIVERED

David A. Adams
Richland County Treasurer
2020 Hampton Street
Columbia, SC 29201

Re: Reign Living, LLC
HSB File No. 40192.1

Dear Mr. Adams:

Enclosed is a check in the amount of \$100,000. This check represents payment of the amount due from Reign Living, LLC to Richland County pursuant to Section 2.3 of the Infrastructure Credit Agreement dated June 19, 2018. Please let me know if you have any questions.

Best regards,



William R. Johnson

WRJ:sd

Enclosure

cc: Emily Luther
Jeff Ruble

0108

REIGN LIVING COLUMBIA LLC

2730 TRANSIT ROAD
WEST SENECA, NY 14224



KeyBank National Association
Schenectady, New York 12303
1-800-KEY2YOU



29-7/213

1/9/2019

PAY TO THE ORDER OF **Richland County, South Carolina**

\$**100,000.00

One Hundred Thousand and 00/100*****

DOLLARS

Richland County, South Carolina



AUTHORIZED SIGNATURE

MEMO

⑈000 108⑈ ⑆021300077⑆ 329681298926⑈

REIGN LIVING COLUMBIA LLC

Richland County, South Carolina

0108

Date	Type	Reference	Original Amt.	Balance Due	1/9/2019 Discount	Payment
1/9/2019	Bill		100,000.00	100,000.00		100,000.00
				Check Amount		100,000.00


Section 1. Based solely on information provided to the County by the Taxpayer, including the Notices of Intent, the County hereby certifies that (i) Parcel A and Parcel B each constitute an abandoned building site, and the improvements on each of Parcel A and Parcel B constitute two separate abandoned buildings, as defined by Section 12-67-120(1) of the Act, and (ii) the geographic area of each building site is consistent with Section 12-67-120(2) of the Act.

Section 2. All orders, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This Resolution shall take effect and be in full force from and after its passage by the County Council.

Section 3. This Resolution regards only the certification of Parcel A and Parcel B pursuant to Section 12-67-120 of the Act. The County makes no representations, warranties, findings or determinations regarding any other matters, including the eligibility of the Taxpayer for any credit authorized pursuant to the Act, Parcel A's or Parcel B's fitness for a particular purpose or any zoning, permitting, or licensing matters.

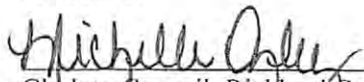
RESOLVED the 7th day of October, 2017.

RICHLAND COUNTY, SOUTH CAROLINA


Joyce Dickerson
Chair, Richland County Council

(SEAL)

ATTEST:


Clerk to Council, Richland County Council

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. 031-18HR

**AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF
THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK
JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO
INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND
COUNTY; THE EXECUTION AND DELIVERY OF AN
INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR
INFRASTRUCTURE CREDITS TO PROJECT REIGN; AND
OTHER RELATED MATTERS.**

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

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Infrastructure Credit”) 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 manufacturing facility or commercial enterprise (collectively, “Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated April 15, 2003 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, Project Reign (“Company”) desires to establish a commercial apartment complex within the County (“Project”), consisting of taxable investments in real and personal property of not less than \$27,000,000;

WHEREAS, at the Company’s request, the County desires to expand the boundaries of the Park and amend the Park Agreement to include the real and personal property relating to the Project, specifically, approximately 3 acres located at 1087 Shop Road, TMS # R11210-01-13 and approximately 7.31 acres located at 1115 Shop Road, TMS # R11210-01-01 (“Property”), in the Park; and

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

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

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

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

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

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

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

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

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

RICHLAND COUNTY, SOUTH CAROLINA



Chair, Richland County Council

(SEAL)
ATTEST:



Clerk of Council, Richland County Council

First Reading: April 17, 2018
Second Reading: May 1, 2018
Public Hearing: May 15, 2018
Third Reading: June 19, 2018

EXHIBIT A
FORM OF AGREEMENT

INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

REIGN LIVING LLC
(previously identified as Project Reign)

Effective as of: June 19, 2018

INFRASTRUCTURE CREDIT AGREEMENT

This INFRASTRUCTURE CREDIT AGREEMENT, effective as of June 19, 2018 (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and REIGN LIVING LLC (“Company” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

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

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Infrastructure Credit”) 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 (collectively, “Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated April 15, 2003 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, the Company has committed to establish a commercial apartment complex in the County (“Project”) on property more particularly identified by Exhibit A (“Land”), consisting of taxable investment in real and personal property of not less than \$27,000,000;

WHEREAS, by an ordinance enacted on June 19, 2018 (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property relating to the Project (“Property”) in the Park; and

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

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

**ARTICLE I
REPRESENTATIONS**

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

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

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

- (a) The Company is in good standing under the laws of the State of Delaware, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;
- (b) The Company will use commercially reasonable efforts to achieve the Investment Commitment, as defined below, at the Project; and
- (c) The Company's execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound.
- (d) The Company hereby covenants to provide \$100,000 each year for three years, commencing on or before January 15, 2019, and continuing through January 15, 2021, for a total of \$300,000 ("Community Funds"), to the County for the purpose of acquiring, developing, constructing or improving certain parks, green spaces, recreational facilities or beautification projects ("Community Investment") within the community in which the Project will be located. The County shall have the sole discretion in determining the particular Community Investment on which the Community Funds shall be expended.

**ARTICLE II
INFRASTRUCTURE CREDITS**

Section 2.1. *Investment Commitment.* The Company shall invest not less than \$27,000,000 in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below.

The Company shall certify to the County achievement of the Investment Commitment by no later than December 31, 2023 (“Certification Date”), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment. If the Company fails to achieve and certify the Investment Commitment by the Certification Date, the Company is subject to the clawback requirements set forth in Section 2.3 below.

Section 2.2. Infrastructure Credits.

(a) To assist in paying for costs of Infrastructure, the County shall provide an Infrastructure Credit against certain of the Company’s Fee Payments due with respect to the Project. The term, amount and calculation of the Infrastructure Credit is described in Exhibit B. Provided, the Infrastructure Credits available to the Company with respect to any particular Fee Payment shall not be applied unless and until the Company is current in its payment of Community Funds described in Section 1.2(d).

(b) For each property tax year in which the Company is entitled to an Infrastructure Credit (“Credit Term”), the County shall prepare and issue the Company’s annual bill with respect to the Project net of the Infrastructure Credit set forth in Section 2.2 (a) (“Net Fee Payment”). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

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

Section 2.3. Clawback. If the Company fails to meet the Investment Commitment by the Certification Date, the Company shall repay a portion of the Infrastructure Credits received. The portion of the Infrastructure Credit to be repaid (“Repayment Amount”) is based on the amount by which the Company failed to achieve the Investment Commitment and is calculated as follows:

Repayment Amount = Total Received x Clawback Percentage

Clawback Percentage = 100% - Investment Achievement Percentage

Investment Achievement Percentage = Actual Investment Achieved / Investment Commitment

For example, and by way of example only, if the Company had received \$1,000,000 in Infrastructure Credits, and had invested \$24,300,000 by the Certification Date, the Repayment Amount would be calculated as follows:

Investment Achievement Percentage = \$24,300,000 / \$27,000,000 = 90%

Clawback Percentage = 100% - 90% = 10%

$$\text{Repayment Amount} = \$1,000,000 \times 10\% = \$100,000$$

The Company shall pay the portion of the Infrastructure Credit to be repaid pursuant to this Section 2.3 within 30 days of receipt of a written statement setting forth the Repayment Amount. If not timely paid, the Repayment Amount 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 survives termination of the Agreement.

Section 2.4 Cumulative Infrastructure Credit. The cumulative dollar amount expended by the Company on Infrastructure shall equal or exceed the cumulative dollar amount of all the Infrastructure Credits received by the Company.

ARTICLE III DEFAULTS AND REMEDIES

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

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

(b) A Cessation of Operations. For purposes of this Agreement, a “Cessation of Operations” means closure of the Project for a continuous period of twelve (12) months;

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

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

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

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

Section 3.2. Remedies on Default.

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

(i) terminate the Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

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

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

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

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

ARTICLE IV MISCELLANEOUS

Section 4.1. *Examination of Records; Confidentiality.*

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

(b) The County acknowledges that the Company may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques ("Confidential Information") and that disclosure of the Confidential Information could result in substantial economic harm to the Company. The Company may clearly label any Confidential Information delivered to the County pursuant to this Agreement as "Confidential Information." Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Company acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is

required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Company with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.2. Assignment. The Company may assign or otherwise transfer any of its rights and interest in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably withheld. Notwithstanding the preceding sentence, the County preauthorizes and consents to an assignment by the Company of its rights and interest in this Agreement to an “Affiliate” of the Company so long as the Company provides 30 days’ prior written notice of the assignment to the County, and the Affiliate agrees in a signed writing, a copy of which shall be delivered to the County, to assume all duties and obligations of the Company hereunder. An “Affiliate” of the Company shall mean any entity that controls, is controlled by, or is under common control with the Company.

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

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

Section 4.5. Limitation of Liability.

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

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

Section 4.6. Indemnification Covenant.

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

(b) The County is entitled to use counsel of its choice and the Company shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a) above. The County shall provide a

statement of the costs incurred in the response or defense, and the Company shall pay the County within 30 days of receipt of the statement. The Company may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

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

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

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

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

if to the County:	Richland County, South Carolina Attn: Director of Economic Development 2020 Hampton Street Columbia, South Carolina 29204 Phone: 803.576.2043 Fax: 803.576.2137
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with a copy to (does not constitute notice):	Parker Poe Adams & Bernstein LLP Attn: Ray E. Jones 1221 Main Street, Suite 1100 (29201) Post Office Box 1509 Columbia, South Carolina 29202 Phone: 803.255.8000 Fax: 803.255.8017
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if to the Company:	Reign Living LLC 1862 Martin Luther King Jr. Blvd. Riviera Beach, FL 33404 Phone: 561.914.1888 Fax: 561.863.8775
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with a copy to
(does not constitute notice):

Haynsworth Sinkler Boyd P.A.
Attn: Will R. Johnson
1201 Main Street, Suite 2200 (29201)
Post Office Box 11889
Columbia, South Carolina 29211-1889
Phone: 803.540.7945
Fax: 803.765.1243

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

Section 4.8. *Administrative Fees.* The Company will reimburse, or cause reimbursement to, the County for the Administration Expenses based on actual costs incurred in the amount of up to \$10,000. The Company will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Company shall pay the Administration Expenses as set forth in the written request no later than 60 days following receipt of the written request from the County. For purposes of this Section, "Administration Expenses" means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys' fees. Administration Expenses do not include any costs, expenses, including attorneys' fees, incurred by the County (i) in defending challenges to the Fee Payments or Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

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

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

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

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

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

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

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

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

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

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


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

RICHLAND COUNTY, SOUTH CAROLINA



Chair, Richland County Council

(SEAL)
ATTEST:




Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO INFRASTRUCTURE CREDIT AGREEMENT]

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

REIGN LIVING LLC

By: 
Name: Scott R. Sharp
Its: President

[SIGNATURE PAGE 2 TO INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

Approximately 3 acres located at 1087 Shop Road, TMS # R11210-01-13

Approximately 7.31 acres located at 1115 Shop Road, TMS # R11210-01-01

EXHIBIT B

DESCRIPTION OF INFRASTRUCTURE CREDIT

33% per year for 10 years, commencing with the first property tax year after the property tax year in which the project is placed in service