



**ANDERSON  
COUNTY**  
SOUTH CAROLINA

**AGENDA  
ANDERSON COUNTY  
Tuesday, March 2, 2021 at 6:30pm  
Anderson County Civic Center  
3027 Martin Luther King Jr. Blvd.  
Chairman Tommy Dunn, Presiding**

**Tommy Dunn**  
Chairman  
Council District 5

**Brett Sanders**  
Vice Chairman  
Council District 4

**John B. Wright, Jr.**  
Council District 1

**Vacant**  
Council District 2

**Ray Graham**  
Council District 3

**Jimmy Davis**  
Council District 6

**M. Cindy Wilson**  
Council District 7

**Lacey A. Croegaert**  
Clerk to Council

**Rusty Burns**  
County Administrator

1. **CALL TO ORDER:**
2. **INVOCATION AND PLEDGE OF ALLEGIANCE:** Mr. Ray Graham
3. **APPROVAL OF MINUTES:** February 16, 2021 minutes not received
4. **CITIZENS COMMENTS:** Agenda Matters only
5. **FELLOWSHIP OF CHRISTIAN ATHLETES:** Mr. Matt Bailey (allotted 5 minutes)
6. **INTRODUCTION OF ANDERSON COUNTY CITIZEN ENGAGEMENT APP:** Mr. Mark Williamson (allotted 10 minutes)
7. **ORDINANCE THIRD READING:**
  - a. **2021-006:** An ordinance to amend the zoning map to rezone +/- 2.8 acres from R-20 (Single- Family Residential) to C-3 (Commercial District) located Jackson Circle and Hwy. 187. TMS# 46-00-03-002. (District 4) Ms. Alesia Hunter (allotted 5 minutes)
  - b. **2021-007:** An ordinance to amend the zoning map to rezone +/- 0.87 acres from R-20 (Single-Family Residential) to C-3 (Commercial District) at 103 Jackson Circle. TMS# 46-00-02-001. (District 4) Ms. Alesia Hunter (allotted 5 minutes)
8. **ORDINANCE SECOND READING:**
  - a. **2020-039:** An ordinance to amend Section 38-359 (Flag Lots) of the Anderson County Code to further define and clarify the circumstances for the use of flag lots within Anderson County. **PUBLIC HEARING-THREE (3) MINUTE TIME LIMIT.** Chairman Tommy Dunn (allotted 5 minutes)
  - b. **2021-014:** An ordinance authorizing the execution and delivery of an amendment to an existing Fee-in-Lieu of Ad Valorem Taxes Agreement to provide for changes to the legal description of the project for a company now identified as Anderson Solar Farm, LLC and previously known to the County as Project Tarpon and the amendment of the County's Multi-County Industrial Park Agreement with Greenville County, South Carolina. Mr. Burriss Nelson (allotted 5 minutes)
9. **ORDINANCE FIRST READING:**
  - a. **2021-015:** An ordinance authorizing the execution and delivery of a Fee in Lieu of Tax Agreement and an Infrastructure Finance Agreement by and between Anderson County, South Carolina and Project Switch (The "Company") with respect to certain Economic Development property in the County whereby such property will be subject to certain payments in Lieu of Taxes, and the Company will receive certain Infrastructure Credits in respect of investment in related Infrastructure. Mr. Burriss Nelson (allotted 5 minutes)
  - b. **2021-016:** An Ordinance to amend Section 38-331 of the Code of Ordinances, Anderson County, South Carolina so as to add a new subsection (g) to address the period of time of final plat approval for completion of improvements. **(TITLE ONLY)** Chairman Tommy Dunn (allotted 5 minutes)
  - c. **2021-017:** An Ordinance to amend Section 66-43 of the Code of Ordinances, Anderson County, South Carolina so as to add a new subsection (h) to address the time period for completion of the sewer system extension. **(TITLE ONLY)** Chairman Tommy Dunn (allotted 5 minutes)

**10. RESOLUTIONS: None**

**11. BID APPROVAL:**

- a. BID # 21-040 Green Pond Amphitheater

**12. REPORT FROM LAND USE ADHOC MEETING HELD ON THURSDAY, FEBRUARY 25, 2021:**

- 3. Land Use Discussion Chairman Tommy Dunn (allotted 10 minutes)

**13. REPORT PLANNING AND PUBLIC WORKS HELD FRIDAY, FEBRUARY, 26, 2021:**

Chairman M. Cindy Wilson (allotted 10 minutes)

- 3. Consideration of Waste Connections request to increase annual tonnage at the Anderson Regional Landfill

**14. APPOINTMENTS:**

**15. REQUESTS BY COUNCIL:**

(allotted 14 minutes)

- Anderson County Park Department- District 7

**16. ADMINISTRATORS REPORT:**

**17. CITIZENS COMMENTS:**

**18. REMARKS FROM COUNCIL:**

**19. ADJOURNMENT:**

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures in order to participate in this program, service or activity please contact the office of the program, service or activity as soon as possible but no later than 24 hours before the scheduled event.

For assistance please contact the Clerk to Council at 864-260-1036.

# Instructions: ACSC Gov App

## Download

1. Open the Apple App Store or Google Play Store
2. Click the search icon
3. Type in "ACSC Gov" and click search
4. After the App appears click the "GET" or "Install" Button
5. If necessary, enter your username and password
6. Wait for the App to finish downloading

## Setup

1. Open the ACSC Gov App
2. Click the Profile Button in the bottom right corner
3. Click the Register Button on the screen
4. Enter your Display Name  
(This is the name you would like to appear to other users on the app.  
It can be your real name, nickname, or preferred username)
5. Enter your email address & password
6. Confirm your password by entering it again
7. Type in your street address.  
(Example: Main St. Anderson, SC)
8. Check the box for "I agree to the Terms of Use"
9. Finally, choose whether or not you would like to receive notifications.

Continue on back for further instruction →

## Submit A Work Request

1. Click on the orange circle at the bottom of the screen
2. Choose to take a picture or upload a previously taken photo of the item you are trying to report.
3. If the address of your location is incorrect move the map by dragging it with your finger or type in the preferred address then click next.
4. Select the category your request falls under. Then click Next
5. Type in your description of the issue.
6. Finally, click Submit.

You have successfully submitted a work request to Anderson County. Thank you for doing your part to make our community that much better!



Need further instruction? Scan this QR Code with your camera to watch a video or Google <https://wi.st/2NEFmID>

## **Ordinance #2021-006**

**An Ordinance to amend Ordinance #99-004, the Anderson County Zoning Ordinance, as adopted July 20, 1999, by amending the Anderson County Official Zoning Map to rezone +/- 2.8 acres from R-20 (Single-Family Residential District) to Zone (Commercial District) on a parcel of land, identified as Jackson Circle in the Fork No. 1 Precinct shown in Deed Book 14195 page 00183. The parcel is further identified as TMS #46-00-03-002.**

**Whereas**, Anderson County, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), acting by and through its County Council (the "County Council") has previously adopted Anderson County Ordinance #99-004, the Anderson County Zoning Ordinance (the "Ordinance"), which Ordinance contains the Anderson County Official Zoning Map (the "Map"); and,

**Whereas**, the Ordinance contains provisions providing for the amendment of the Map; and,

**Whereas**, County Council desires to amend the Map by adopting a zoning map amendment from R-20 to C-3 for +/- 2.8 acres of TMS #46-00-03-002 described above; and,

**Whereas**, the Anderson County Planning Commission has held a duly advertised Public Hearing on January 7, 2021, during which it reviewed the proposed rezoning from R-20 to C-3 +/- 2.8 acres of TMS #46-00-03-002 described above; and,

**Whereas**, the Anderson County Council has duly advertised and held a Public Hearing on February 2, 2021, regarding said amendment of the Anderson County Official Zoning Map:

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**NOW, THEREFORE, be it ordained by Anderson County Council, in meeting duly assembled, that:**

1. The Anderson County Council hereby finds that this proposed rezoning is consistent with the Anderson County Comprehensive Plan and in accord with requirements of the South Carolina Code of Laws Title 6, Chapter 29, Article 5.
2. The Anderson County Council hereby amends the Anderson County Official Zoning Map as previously adopted July 20, 1999, by Anderson County Ordinance #99-004 to rezone from R-20 to C-3 +/- 2.8 acres of TMS #46-00-03-002 described above.
3. Should any portion of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such determination shall not affect the remaining terms and provisions of this ordinance, all of which are hereby deemed separable.
4. All orders, resolutions, and enactments of Anderson County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.
5. This ordinance shall take effect and be in full force and effect from and after third reading and enactment by Anderson County Council.

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ATTEST: Ordinance 2021-006

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Rusty Burns  
Anderson County Administrator

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Tommy Dunn, Chairman  
Anderson County Council

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Lacey Croegaert  
Anderson County Clerk to Council

**APPROVED AS TO FORM:**

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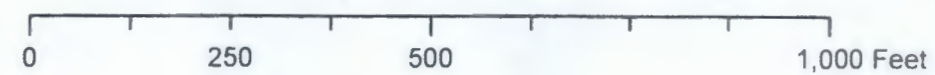
Leon C. Harmon  
Anderson County Attorney

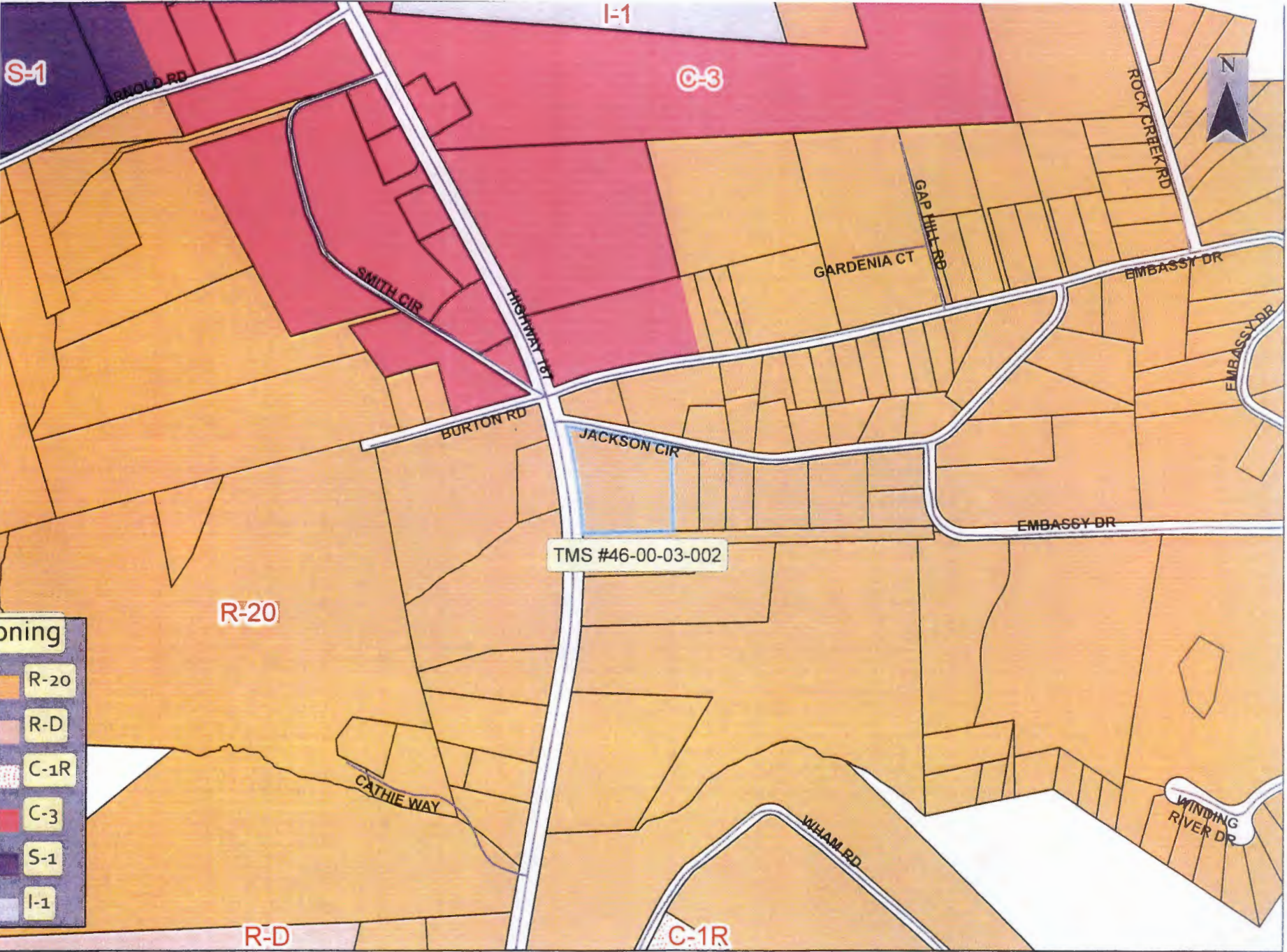
1<sup>st</sup> Reading: February 2, 2021  
2<sup>nd</sup> Reading: February 16, 2021  
3<sup>rd</sup> Reading: March 2, 2021  
Public Hearing: February 16, 2021



**Aerial Photography**

**Rezoning Request  
Jackson Circle  
R-20 to C-3**

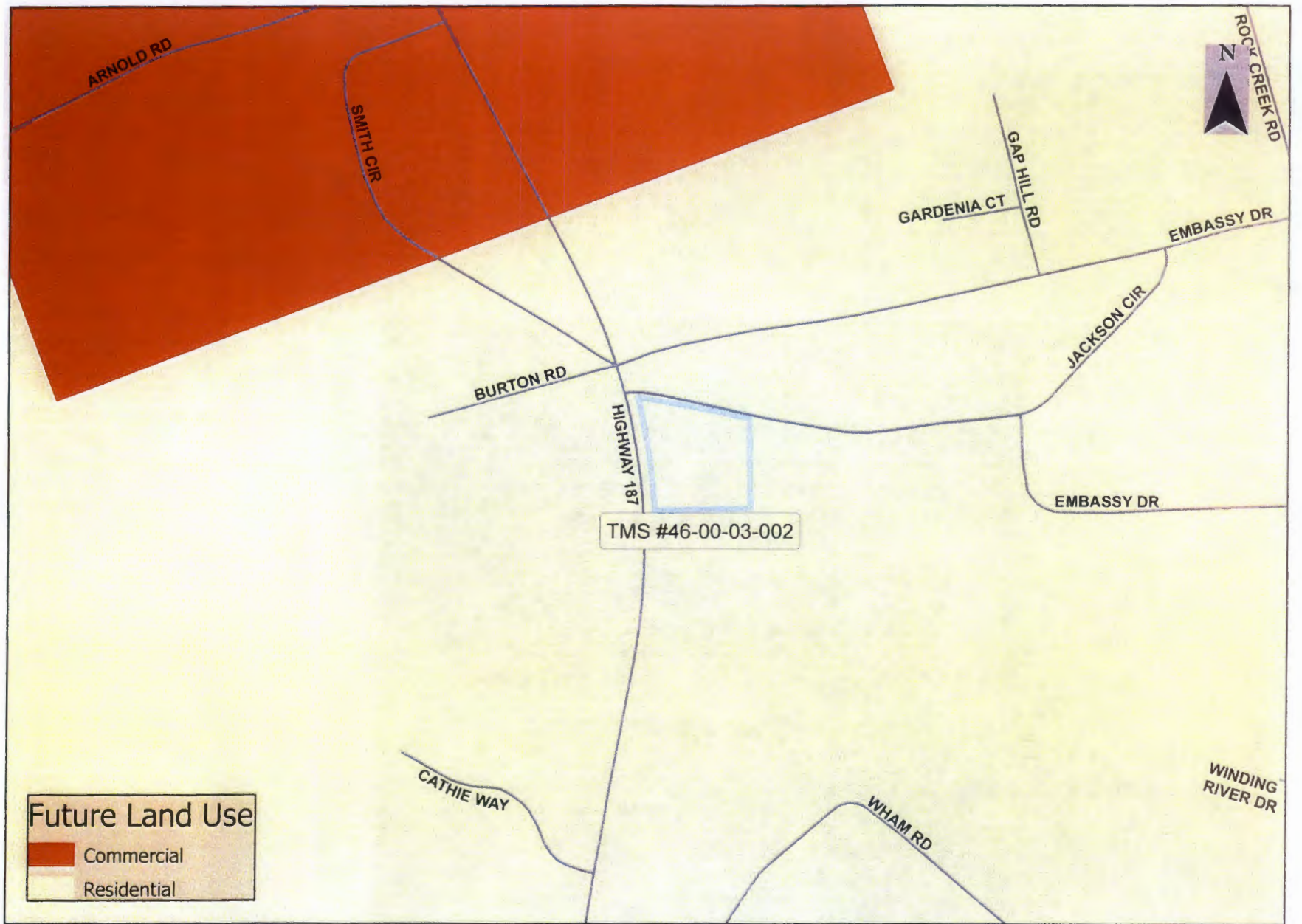




- oning
- R-20
  - R-D
  - C-1R
  - C-3
  - S-1
  - I-1

oning Request  
kson Circle  
0 to C-3





**Rezoning Request**  
**Jackson Circle**  
**R-20 to C-3**





## **Ordinance #2021-007**

**An Ordinance to amend Ordinance #99-004, the Anderson County Zoning Ordinance, as adopted July 20, 1999, by amending the Anderson County Official Zoning Map to rezone +/- 0.87 acres from R-20 (Single-Family Residential) to C-3 (Commercial District) on a parcel of land, identified as 103 Jackson Circle in the Fork No. 1 Precinct shown in Deed Book 6389 page 00167. The parcel is further identified as TMS #46-00-02-001.**

**Whereas**, Anderson County, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), acting by and through its County Council (the "County Council") has previously adopted Anderson County Ordinance #99-004, the Anderson County Zoning Ordinance (the "Ordinance"), which Ordinance contains the Anderson County Official Zoning Map (the "Map"); and,

**Whereas**, the Ordinance contains provisions providing for the amendment of the Map; and,

**Whereas**, County Council desires to amend the Map by adopting a zoning map amendment from R-20 to C-3 for +/- 0.87 acres of TMS #46-00-02-001 described above; and,

**Whereas**, the Anderson County Planning Commission has held a duly advertised Public Hearing on January 7, 2021, during which it reviewed the proposed rezoning from to R-20 to C-3 +/- 0.87 acres of TMS #46-00-02-001 described above; and,

**Whereas**, the Anderson County Council has duly advertised and held a Public Hearing on February 2, 2021, regarding said amendment of the Anderson County Official Zoning Map:

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**NOW, THEREFORE, be it ordained by Anderson County Council, in meeting duly assembled, that:**

1. The Anderson County Council hereby finds that this proposed rezoning is consistent with the Anderson County Comprehensive Plan and in accord with requirements of the South Carolina Code of Laws Title 6, Chapter 29, Article 5.
2. The Anderson County Council hereby amends the Anderson County Official Zoning Map as previously adopted July 20, 1999, by Anderson County Ordinance #99-004 to rezone from R-20 to C-3 +/- 0.87 acres of TMS #46-00-02-001 described above.
3. Should any portion of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such determination shall not affect the remaining terms and provisions of this ordinance, all of which are hereby deemed separable.
4. All orders, resolutions, and enactments of Anderson County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.
5. This ordinance shall take effect and be in full force and effect from and after third reading and enactment by Anderson County Council.

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ATTEST: Ordinance 2021-007

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Rusty Burns  
Anderson County Administrator

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Tommy Dunn, Chairman  
Anderson County Council

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Lacey Croegaert  
Anderson County Clerk to Council

**APPROVED AS TO FORM:**

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Leon C. Harmon  
Anderson County Attorney

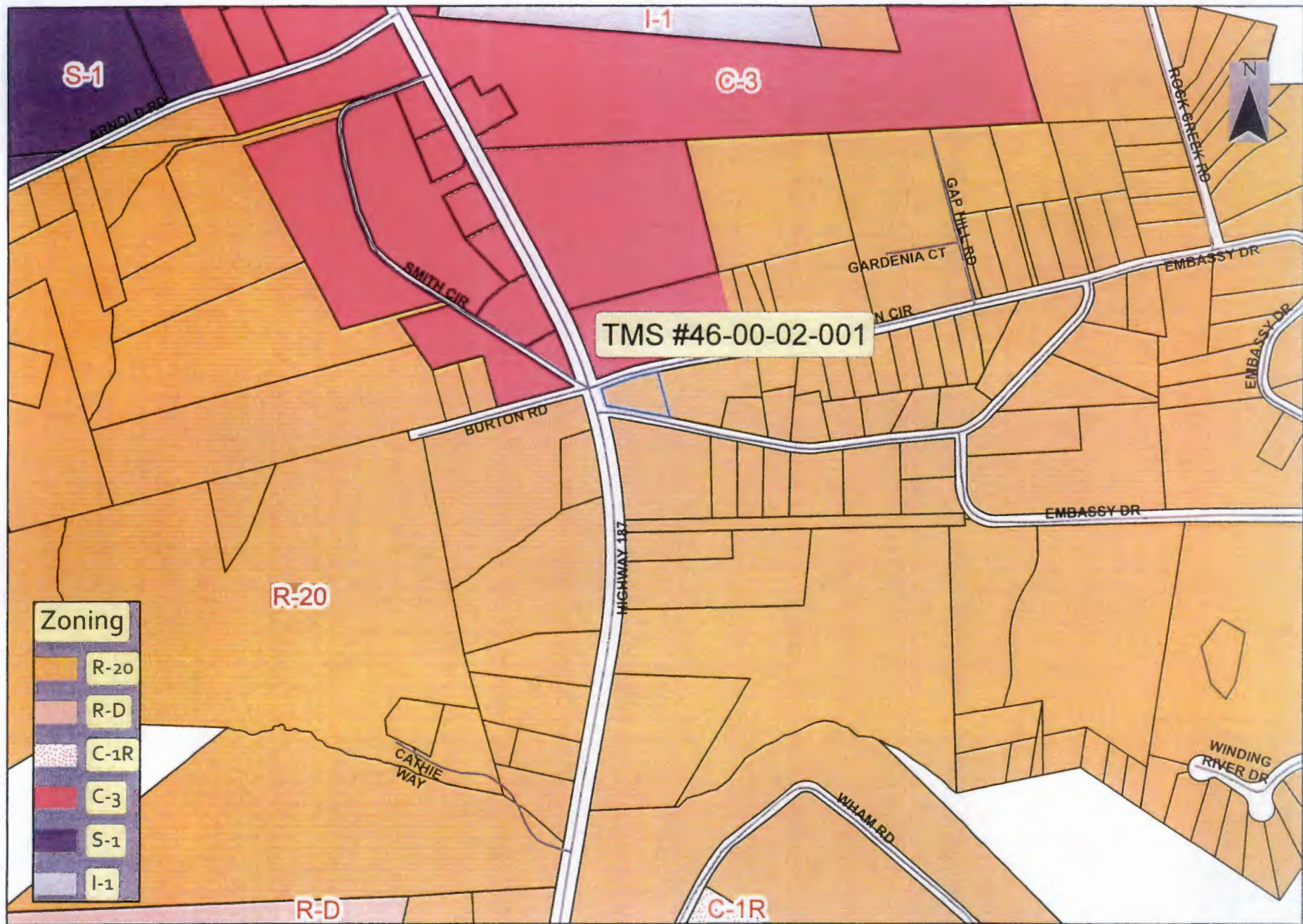
1<sup>st</sup> Reading: February 2, 2021  
2<sup>nd</sup> Reading: February 16, 2021  
3<sup>rd</sup> Reading: March 2, 2021  
Public Hearing: February 16, 2021



**Aerial Photography**

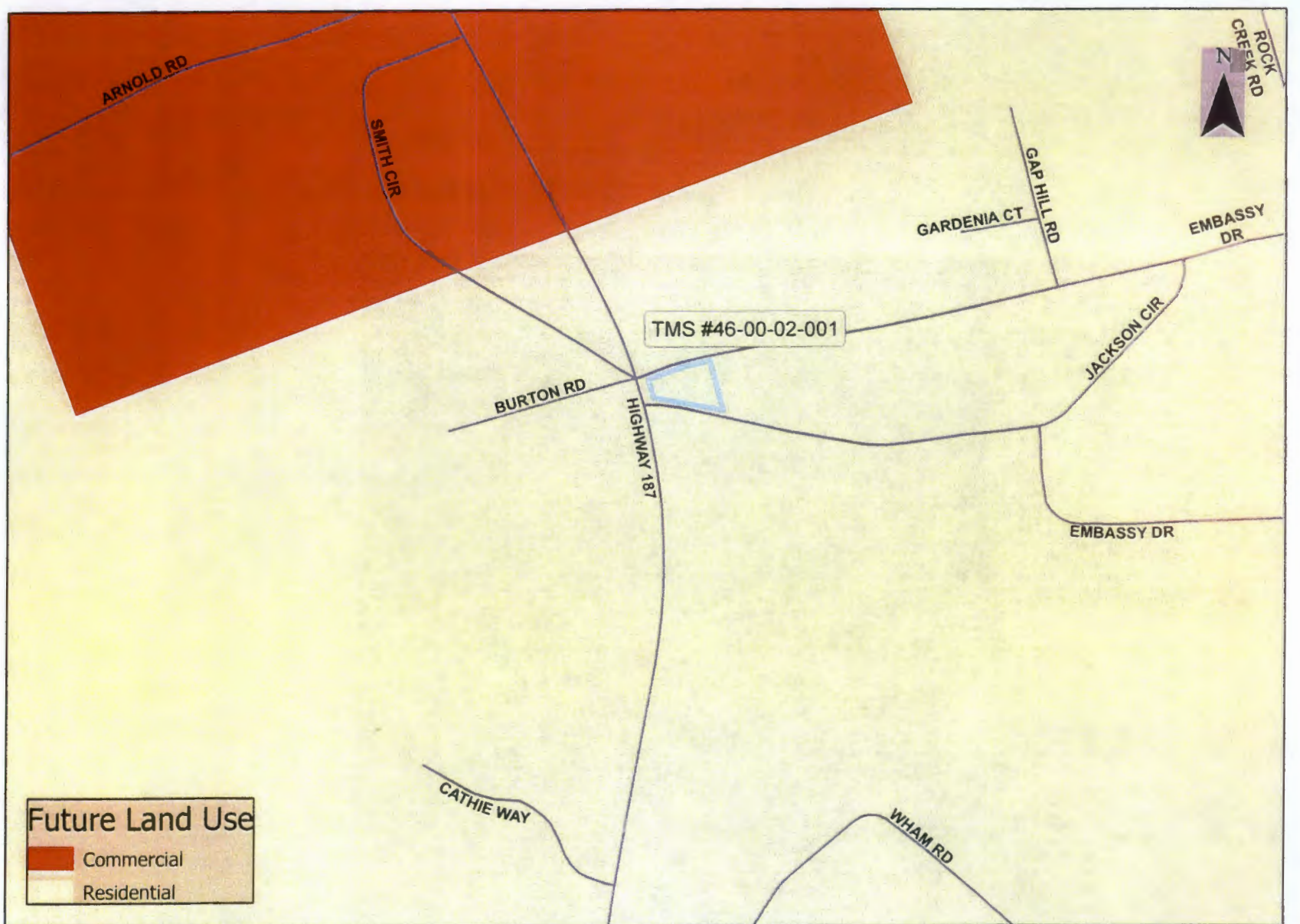
**Rezoning Request  
Jackson Circle  
R-20 to C-3**

0 190 380 760 Feet



**Rezoning Request**  
**103 Jackson Circle**  
**R-20 to C-3**

0 500 1,000 2,000 Feet



**Rezoning Request**  
**103 Jackson Circle**  
**R-20 to C-3**

0 500 1,000 2,000 Feet



**ORDINANCE NO. 2020-039**

**AN ORDINANCE TO AMEND SECTION 38-359 (FLAG LOTS) OF THE ANDERSON COUNTY CODE TO FURTHER DEFINE AND CLARIFY THE CIRCUMSTANCES FOR THE USE OF FLAG LOTS WITHIN ANDERSON COUNTY; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, the Anderson County Council desires to further define and clarify the circumstances under which flag lots may be utilized within Anderson County; and

**WHEREAS**, the Anderson County Council believes the Amendments to Section 38-359 of the Anderson County Code will provide for uniform and consistent application of the standards for the use of flag lots within Anderson County.

**NOW, THEREFORE**, be it ordained by Anderson County Council in meeting duly assembled that:

1. Section 38-359 of the Code of Ordinances, Anderson County, South Carolina, is hereby amended to read as follows:

**Sec. 38-359. Flag Lots**

- (a) No More than ten percent of the lots in a subdivision containing more than 20 lots shall be flag lots. Subdivisions containing at least three and no more than 20 lots shall have a maximum of two flag lots.
- (b) No more than two pole portions of a flag lot may access a county or state road at any given location as shown in the example on Exhibit A. Flag lots must be spaced at least 125 feet apart at the point of access on a local road, at least 250 feet apart at the point of an access on a collector road, and at least 400 feet apart at the point of access on an arterial road. Each side of a road shall be separately considered for meeting the distance standards of this section.
- (c) Pole portions of a flag lot must each be a minimum of twenty feet wide, must have driveway pipe sized in accordance with section 38-631, and must have sight distances in accordance with Section 38-611.
- (d) Unless the pole portions of the flag lot contains a roadway built to county road standards, the plat for the flag lot must clearly mark the pole portion of the flag lot as a private driveway.
- (e) The pole portion of each flag shall contain a driveway sized to allow the passage of emergency vehicles.

2. The remaining terms and provisions of the Anderson County Code of Ordinances not revised or affected hereby remain in full force and effect.

3. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the remainder of this Ordinance, all of which is hereby deemed separable.

4. All Ordinances, Orders, Resolutions, and actions of Anderson County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

5. This ordinance shall take effect and be in full force upon the Third Reading and Enactment by Anderson County Council.

**ORDAINED** in meeting duly assembled this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ATTEST:**

**FOR ANDERSON COUNTY:**

\_\_\_\_\_  
Rusty Burns  
Anderson County Administrator

\_\_\_\_\_  
Tommy Dunn, Chairman  
Anderson County Council

\_\_\_\_\_  
Lacey A. Croegaert  
Anderson County Clerk to Council

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Leon C. Harmon  
Anderson County Attorney

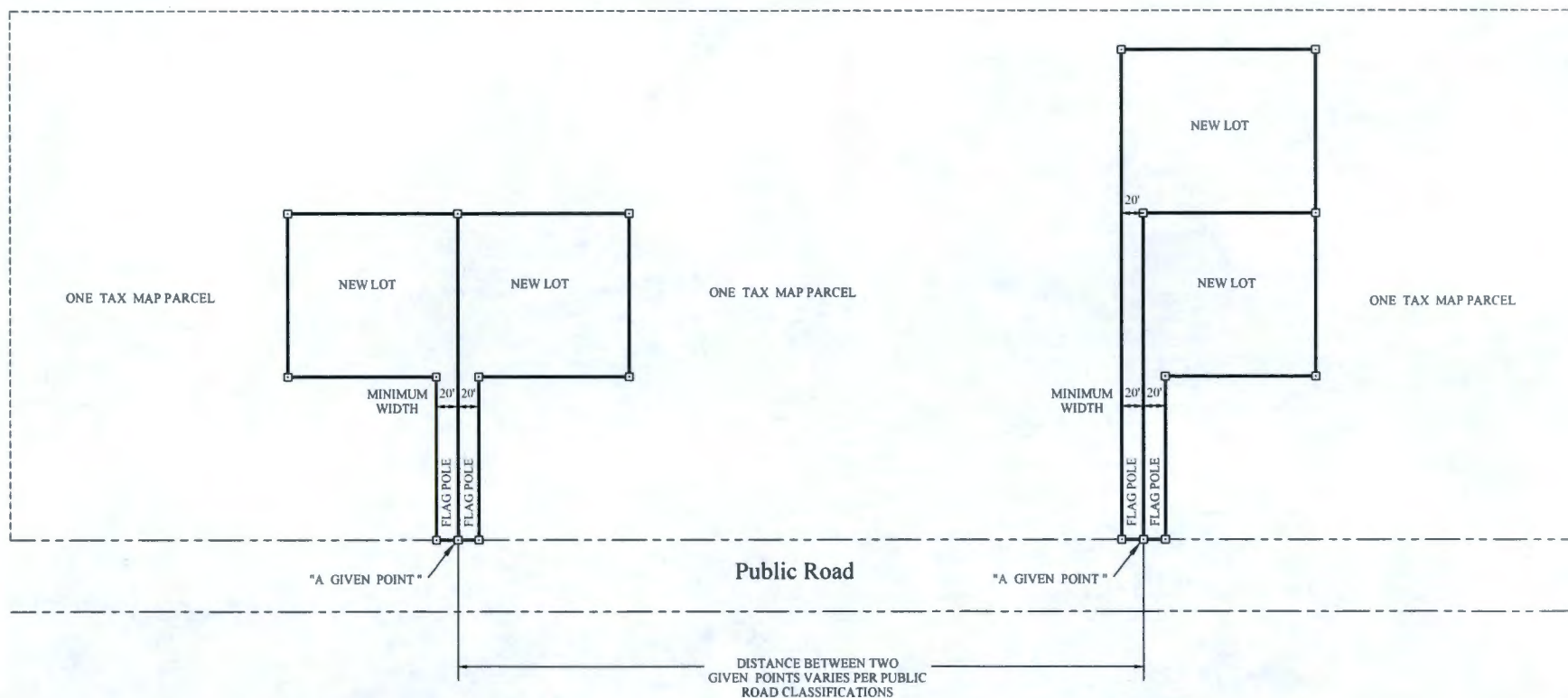
1<sup>st</sup> Reading: November 12, 2020

2<sup>nd</sup> Reading:

3<sup>rd</sup> Reading:

Public Hearing:

EXHIBIT A



**ORDINANCE NO. 2021-014**

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDMENT TO AN EXISTING FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT TO PROVIDE FOR CHANGES TO THE LEGAL DESCRIPTION OF THE PROJECT FOR A COMPANY NOW IDENTIFIED AS ANDERSON SOLAR FARM, LLC AND PREVIOUSLY KNOWN TO THE COUNTY AS PROJECT TARPON; THE AMENDMENT OF THE COUNTY'S MULTI-COUNTY INDUSTRIAL PARK AGREEMENT WITH GREENVILLE COUNTY, SOUTH CAROLINA; AND OTHER MATTERS RELATED THERETO.**

WHEREAS, Anderson County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the "FILOT Act") and Title 4, Chapter 1 (the "Park Act") of the Code of Laws of South Carolina, 1976, as amended, to enter into agreements with industry whereby the industry would pay fees-in-lieu-of taxes with respect to qualified projects; to provide infrastructure credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure enhancing the economic development of the County; through all such powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, Anderson Solar Farm, LLC (the "Sponsor") is presently a party as a sponsor to that existing Fee-in-Lieu of *Ad Valorem* Taxes Agreement, having an effective date of June 4, 2019, by and between the Sponsor and the County (the "Existing FILOT") providing for the minimum investment of \$2.7 million in qualifying expenditures on or before the end of the Investment Period (as defined in the Existing FILOT) by the Sponsor for the production and supply of electricity to the public by conversion of solar energy (the "Project") on land owned by a landlord (the "Leased Site") and further providing for an aggregate annual net FILOT payment due to the County of \$7,400 during the entire term of the Fee Agreement; and

WHEREAS, the Sponsor is reducing the size of the Leased Site in the County upon which the Project is located; and

WHEREAS, the Sponsor has proposed that the Existing FILOT be amended (the "Proposed Amendment") to capture the reduced size of the Leased Site in the form attached hereto; and

WHEREAS, pursuant to Ordinance No. 2010-026 enacted October 19, 2010 by County Council, the County entered into an Agreement for the Development of a Joint County Industrial and Business Park (2010 Park) dated as of December 1, 2010, with Greenville County (as subsequently amended, the "Park Agreement"); and

WHEREAS, pursuant to Section 3(A) of the Park Agreement, the boundaries of the park created therein (the "Park") may be enlarged pursuant to ordinances of the County Councils of Anderson County and Greenville County; and

WHEREAS, the County amended the Park Agreement so as to enlarge the Park to include the Leased Site by the adoption of Ordinance 2019-056 on December 3, 2019; and

WHEREAS, Greenville County, South Carolina also adopted an ordinance on December 3, 2019, authorizing the amendment of the Park Agreement to include the Leased Site in the Park; and

WHEREAS, the Sponsor has proposed that the County amend the Park Agreement to reflect the reduced size of the Leased Site in the Park; and

WHEREAS, in connection with certain incentives being offered by Anderson County, it is now desired that the boundaries of the Park be amended to include the reduced size of the Leased Site;

**NOW, THEREFORE,** be it ordained by County Council that:

Section 1. The form, terms and provisions of the Proposed Amendment presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Proposed Amendment was set out in this Ordinance in its entirety. The Chairman of County Council or the County Administrator are hereby authorized, empowered and directed to execute, acknowledge and deliver the Proposed Amendment in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Proposed Amendment to be delivered to the Sponsor and cause a copy of the same to be delivered to the Anderson County Auditor, Assessor and Treasurer. The Proposed Amendment is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the Chairman of County Council or the County Administrator, upon advice of counsel, such official's execution thereof to constitute conclusive evidence of approval of any and all changes or revisions therein from the form of Proposed Amendment now before this meeting.

Section 2. Exhibit B to the Park Agreement is hereby and shall be amended and revised by deleting the legal description of the Anderson Solar Farm, LLC (Project Tarpon) therein and replacing the said legal description with the revised legal description of the Leased Site located in the County as described in the Proposed Amendment and also in the Exhibit A attached hereto and incorporated herein by reference, and, pursuant to Section 3(B) of the Park Agreement, upon adoption by Greenville County of a corresponding ordinance, the Park Agreement shall be deemed amended to so include such property and Exhibit B to the Park Agreement as so revised, without further action by either county.

Section 3. The Chairman of County Council, the County Administrator and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and

all things necessary to effect the execution and delivery of the Proposed Amendment and the performance of all obligations of the County thereunder.

Section 4. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder. All ordinances, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 5. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the County Council.

[signature page follows]

**ATTEST:**

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Rusty Burns  
Anderson County Administrator

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Lacey Croegaert  
Anderson County Clerk to Council

**APPROVED AS TO FORM:**

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Leon C. Harmon  
Anderson County Attorney

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

**FOR ANDERSON COUNTY:**

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Tommy Dunn, Chairman  
Anderson County Council

EXHIBIT A

Revision to Exhibit B to  
Agreement for the Development of a Joint County Industrial and  
Business Park dated as of December 1, 2010, as amended  
between Anderson County and Greenville County

The former legal description of “**Anderson Solar Farm, LLC (Project Tarpon)**” in Anderson County Ordinance No. 2019-056 is hereby deleted and replaced with the following:

**Anderson Solar Farm, LLC (Project Tarpon)**

BEGINNING AT A CALCULATED POINT, SAID POINT HAVING A SC GRID COORDINATE OF N: 972,188.65 AND E: 1,495,005.54, SAID POINT BEING IN THE NORTHWESTERN RIGHT-OF-WAY OF LEWIS STREET; THENCE S 89°59'26” E FOR A DISTANCE OF 1236.82 FEET TO A CALCULATED POINT; THENCE S 0°00'34” E FOR A DISTANCE OF 1007.55 FEET TO A CALCULATED POINT; THENCE S 89°31'16” W FOR A DISTANCE OF 804.17 FEET TO A CALCULATED POINT, SAID POINT BEING IN THE NORTHWESTERN RIGHT-OF-WAY OF LEWIS STREET; THENCE WITH THE AFORESAID RIGHT-OF-WAY N 34°25'56” W FOR A DISTANCE OF 331.73 FEET TO A CALCULATED POINT; THENCE FOLLOWING A CURVE TO THE RIGHT WITH A RADIUS OF 719.02 FEET AND A CHORD BEARING OF N 24°19'34” W FOR A DISTANCE OF 294.44 FEET TO A CALCULATED POINT; THENCE N 14°40'57” W FOR A DISTANCE OF 482.43 FEET TO A CALCULATED POINT; THENCE FOLLOWING A CURVE TO THE LEFT WITH A RADIUS OF 916.62 FEET AND A CHORD BEARING OF N 16°07'23” W FOR A DISTANCE OF 6.13 FEET TO THE POINT AND PLACE OF BEGINNING, CONTAINING 24.87 ACRES, MORE OR LESS.

TMS No. 1240001002

## AMENDMENT TO FEE AGREEMENT

THIS AMENDMENT TO FEE AGREEMENT (this “*Amendment*”) is made and entered into as of \_\_\_\_\_, 2021, by and between Anderson County, South Carolina (the “*County*”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the “*County Council*”) as governing body of the County, and Anderson Solar Farm, LLC, a limited liability company organized and existing under the laws of the State of South Carolina and qualified to conduct business in the State of South Carolina (the “*Sponsor*”), previously known to the County as Project Tarpon.

### WITNESSETH:

**WHEREAS**, the County, acting by and through its County Council, and as authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the “*Act*”), entered into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement having an effective date of June 4, 2019 (the “*Fee Agreement*”) with the Sponsor, being a qualifying industry under the Act, whereby the County covenanted with the Sponsor to accept certain payments in lieu of *ad valorem* taxes (“*FILOT*”), with provision for certain special source revenue credits, with respect to investments by the Sponsor toward the installation of solar power generating facilities located at a leased site situated in Anderson County, South Carolina (the “*Project*”); and

**WHEREAS**, the Fee Agreement was approved by the County Council on June 4, 2019; and

**WHEREAS**, the Fee Agreement commits the Sponsor to a minimum of \$2.7 million in qualifying expenditures to be invested in the Project on or before the end of the Investment Period, as those terms are defined in the Fee Agreement; and

**WHEREAS**, the Fee Agreement provides for certain special source revenue credits in an amount that results in an aggregate annual net FILOT payment due to the County of \$7,400 during the entire term of the Fee Agreement; and

**WHEREAS**, the boundaries of the leased site upon which the Project is located have changed and Project will now be located on a reduced portion of the original leased site; and

**WHEREAS**, Section 12-44-40(K)(1) and (2) of the Act permits the County to amend the Fee Agreement as requested by the Sponsor; and

**WHEREAS**, Section 5.7 of the Fee Agreement provides that the County will execute such additional instruments as the Sponsor may reasonably request to effectuate the purposes of the Fee Agreement; and

**WHEREAS**, the County Council finds that granting the request of the Sponsor to so amend the Fee Agreement is in the best interest of the County and its people since it will encourage investment by the Sponsor in the Project; and

**WHEREAS**, pursuant to an Ordinance adopted on \_\_\_\_ \_\_\_, 2021, the County Council authorized the County to enter into this Amendment;

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the respective representations and agreements hereinafter contained and other value, the parties hereto agree as follows:

**ONE:** The legal description in Exhibit A to the Fee Agreement is amended and restated in its entirety to read:

BEGINNING AT A CALCULATED POINT, SAID POINT HAVING A SC GRID COORDINATE OF N: 972,188.65 AND E: 1,495,005.54, SAID POINT BEING IN THE NORTHWESTERN RIGHT-OF-WAY OF LEWIS STREET; THENCE S 89°59'26" E FOR A DISTANCE OF 1236.82 FEET TO A CALCULATED POINT; THENCE S 0°00'34" E FOR A DISTANCE OF 1007.55 FEET TO A CALCULATED POINT; THENCE S 89°31'16" W FOR A DISTANCE OF 804.17 FEET TO A CALCULATED POINT, SAID POINT BEING IN THE NORTHWESTERN RIGHT-OF-WAY OF LEWIS STREET; THENCE WITH THE AFORESAID RIGHT-OF-WAY N 34°25'56" W FOR A DISTANCE OF 331.73 FEET TO A CALCULATED POINT; THENCE FOLLOWING A CURVE TO THE RIGHT WITH A RADIUS OF 719.02 FEET AND A CHORD BEARING OF N 24°19'34" W FOR A DISTANCE OF 294.44 FEET TO A CALCULATED POINT; THENCE N 14°40'57" W FOR A DISTANCE OF 482.43 FEET TO A CALCULATED POINT; THENCE FOLLOWING A CURVE TO THE LEFT WITH A RADIUS OF 916.62 FEET AND A CHORD BEARING OF N 16°07'23" W FOR A DISTANCE OF 6.13 FEET TO THE POINT AND PLACE OF BEGINNING, CONTAINING 24.87 ACRES, MORE OR LESS.

TMS No. 1240001002

Except as modified by this Amendment, the Sponsor and the County hereby acknowledge that the Fee Agreement remains in full force and effect.

IN WITNESS WHEREOF, the County and the Sponsor, pursuant to due authority, have duly executed this Amendment, all as of the date first above written.

[Signature blocks on following pages]

**FOR ANDERSON COUNTY:**

---

Tommy Dunn, Chairman  
Anderson County Council

**ATTEST:**

---

Lacey Croegaert  
Anderson County Clerk to Council

ANDERSON SOLAR FARM, LLC

\_\_\_\_\_  
By: \_\_\_\_\_

Its: \_\_\_\_\_

**ORDINANCE NO. 2021-015**

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT AND AN INFRASTRUCTURE FINANCE AGREEMENT BY AND BETWEEN ANDERSON COUNTY, SOUTH CAROLINA AND PROJECT SWITCH (THE “COMPANY”) WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF TAXES, AND THE COMPANY WILL RECEIVE CERTAIN INFRASTRUCTURE CREDITS IN RESPECT OF INVESTMENT IN RELATED INFRASTRUCTURE; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS, ANDERSON COUNTY, SOUTH CAROLINA** (the “County”), acting by and through its County Council (the “County Council”), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the “FILOT Act”), Title 4, Chapter 1 (the “Multi-County Park Act”), and Title 4, Chapter 29, of the Code of Laws of South Carolina 1976, as amended, to enter into agreements with industry whereby the industry would pay fees-in-lieu-of taxes with respect to qualified industrial projects; to provide credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure serving the County or the project, including improved or unimproved real estate and personal property, including machinery and equipment, used in the manufacturing or industrial enterprise (collectively, “Infrastructure”); through all such powers the industrial development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

**WHEREAS**, pursuant to the FILOT Act, and in accordance with an inducement resolution adopted December 15, 2020 by the County Council with respect to the Company, the Company desires to provide for the acquisition, construction and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to expand an existing manufacturing facility in the County (collectively, the “Project”), which will result in expected aggregate investment by the Company in the Project of approximately \$13,000,000 in non-exempt investment and the expected creation of approximately 200 new, full-time, jobs (with benefits) by the Company or its affiliates or subsidiaries in connection therewith; and

**WHEREAS**, the County has determined on the basis of the information supplied to it by the Company that the Project would be a “project” and “economic development property” as such terms are defined in the FILOT Act and that the Project would serve the purposes of the FILOT Act; and

**WHEREAS**, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution (collectively, the “Multi-County Park Authority”), the Project is or will be placed will be located in a multi-county industrial and business park established by the County pursuant to qualifying agreement with Greenville County (the “Park Agreement”); and

**WHEREAS**, pursuant to Section 4-1-175 of the Act, the County is authorized to reimburse industry for the cost of Infrastructure through the provision of credits against fee in lieu of tax payments by such industry; and

**WHEREAS**, pursuant to the Inducement Agreement, the County has agreed to enter into (a) a Fee in Lieu of Tax Agreement with the Company (the “FILOT Agreement”), whereby the County would

provide therein for a payment of fee in lieu of taxes by the Company to the County with respect to the Project, and (b) an Infrastructure Finance Agreement with the Company (the “Infrastructure Agreement”), whereby the County would provide therein for certain infrastructure credits in respect of qualifying Infrastructure with respect to the Project to be claimed by the Company against its payments in lieu of taxes with respect to the Project, and any other property acquired by the Company in connection therewith as shall not be eligible to be subject to the FILOT Agreement, pursuant to the FILOT Agreement and/or the Park Agreement; and

**WHEREAS**, the County Council has caused to be prepared and presented to this meeting the form of the FILOT Agreement and the Infrastructure Agreement which the County proposes to execute and deliver; and

**WHEREAS**, it appears that the documents above referred to, which are now before this meeting, are in appropriate form and is an appropriate instrument to be executed and delivered or approved by the County for the purposes intended; and

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

Section 1. It is hereby found, determined and declared by the County Council, as follows:

(a) The Project will constitute a “project” and “economic development property” as said terms are referred to and defined in the FILOT Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act;

(b) The terms and provisions of the Inducement Agreement are incorporated herein and made a part hereof;

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

(d) The Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either;

(e) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs and addition to the tax base of the County, are proper governmental and public purposes; and

(f) The benefits of the Project are anticipated to be greater than the costs.

Section 2. The form, terms and provisions of the FILOT Agreement and the Infrastructure Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the FILOT Agreement and the Infrastructure Agreement were set out in this Ordinance in their entirety. The Chairman of County Council is hereby authorized and empowered to execute, acknowledge and deliver the FILOT Agreement and the Infrastructure Agreement in the name of and on behalf of the County, and the Clerk of County Council is hereby authorized and directed to attest the same, and thereupon to cause the FILOT Agreement to be delivered to the Company and the Infrastructure Agreement to be delivered to the Company and the Company shall cause a copy of the FILOT Agreement and the Infrastructure Agreement to be delivered to the Anderson County Auditor and Assessor. The FILOT Agreement and the Infrastructure Agreement are to be in substantially the forms now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the

officials of the County executing the same, upon advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the forms of FILOT Agreement and the Infrastructure Agreement now before this meeting.

Section 3. The Chairman of Anderson County Council, for and on behalf of the County, is hereby authorized to do any and all things necessary to effect the execution and delivery of the FILOT Agreement and the Infrastructure Agreement and the performance of all obligations of the County under and pursuant to the FILOT Agreement and the Infrastructure Agreement.

Section 4. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 5. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the County Council.

**ENACTED** in meeting duly assembled this \_\_\_\_ day of \_\_\_\_\_, 2021.

(SEAL)

**ATTEST:**

**FOR ANDERSON COUNTY:**

\_\_\_\_\_  
Rusty Burns  
Anderson County Administrator

\_\_\_\_\_  
Tommy Dunn, Chairman  
Anderson County Council

\_\_\_\_\_  
Lacey Croegaert  
Anderson County Clerk to Council

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Leon C. Harmon  
Anderson County Attorney

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



**STATE OF SOUTH CAROLINA**

**COUNTY OF ANDERSON**

I, the undersigned Clerk to County Council of Anderson County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received unanimous approval, by the County Council at its meetings of \_\_\_\_\_, 2021, \_\_\_\_\_, 2021 and \_\_\_\_\_, 2021, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

---

Lacey Croegaert  
Anderson County Clerk to Council

Dated: \_\_\_\_\_, 2021

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**FEE IN LIEU OF TAX AGREEMENT**

between

**ANDERSON COUNTY, SOUTH CAROLINA**

and

**PROJECT SWITCH**

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Dated as of \_\_\_\_\_, 2021

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## FEE IN LIEU OF TAX AGREEMENT

**THIS FEE IN LIEU OF TAX AGREEMENT** (this "Agreement") made and entered into as of \_\_\_\_\_, 2021 by and between **ANDERSON COUNTY, SOUTH CAROLINA** (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and **PROJECT SWITCH**, a corporation duly organized and existing under the laws of the State of \_\_\_\_\_ (the "Company").

### WITNESSETH:

**WHEREAS**, Chapter 44 of Title 12, Code of Laws of South Carolina 1976, as amended (the "Act"), empowers the several counties of the State of South Carolina to enter into agreements with industry whereby the industry would pay fees in lieu of *ad valorem* taxes with respect to qualified economic development property; through which powers the industrial development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State of South Carolina and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

**WHEREAS**, in accordance with an inducement resolution adopted December 15, 2020 by Anderson County Council with respect to the Company (known to the County at that time as "Project Switch"), and the related Inducement Agreement between the Company and the County dated as of the same date (the "Inducement Agreement"), the Company desires to provide for the acquisition, construction and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to expand an existing manufacturing facility in the County (collectively, the "Project"), which will result in expected investment by the Company in the Project in the County of an aggregate of approximately \$13,000,000 in non-exempt investment and the expected creation of approximately 200 new, full-time, jobs (with benefits) by the Company or its affiliates or subsidiaries in connection therewith; and

**WHEREAS**, in accordance with the Inducement Resolution and the Act, the County has agreed to execute and deliver this Agreement with the Company in order to provide for payments in lieu of tax with respect to the Project by the Company; and

**WHEREAS**, the provisions of this Agreement are intended to supersede but otherwise implement the provisions of the Inducement Agreement; and

**WHEREAS**, in connection with the above, the County and the Company agree that the requirements of Section 12-44-55(A) of the Act are hereby waived to the extent that, and so long as, the Company provides the County with copies of all filings and reports required to be made by the Company under the Act;

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

# ARTICLE I

## DEFINITIONS

### Section 1.01    Definitions.

In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

“**Act**” shall mean Chapter 44 of Title 12 of the Code, and all future acts amendatory thereof.

“**Additional Payments**” shall have the meaning provided in **Section 4.02** hereof.

“**Administration Expenses**” shall mean the reasonable and necessary expenses incurred by the County with respect to this Agreement, including without limitation reasonable attorney fees; provided, however, that no such expense shall be considered an Administration Expense until the County has furnished to the Company a statement in writing indicating the amount of such expense and the reason it has been or will be incurred.

“**Agreement**” shall mean this agreement as originally executed and from time to time supplemented or amended as permitted herein.

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

“**Company**” shall mean Project Switch, a [ ] corporation, and any surviving, resulting or transferee entity in any merger, consolidation or transfer of assets permitted under **Section 7.04** hereof; or any other person or entity which may succeed to the rights and duties of the Company hereunder in accordance with all applicable provisions hereof.

“**County**” shall mean Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.

“**County Assessor**” shall mean the Anderson County Assessor, or the holder of any successor position.

“**County Auditor**” shall mean the Anderson County Auditor, or the holder of any successor position.

“**County Council**” shall mean the governing body of the County and its constituent members and their respective successors, or any successor body.

“**County Treasurer**” shall mean the Anderson County Treasurer, or the holder of any successor position.

“**Default**” shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default as defined in **Section 9.01** hereof.

“**Department**” shall mean the South Carolina Department of Revenue, or any successor agency.

**“Equipment”** shall mean all machinery, equipment, furnishings and other personal property which is installed by the Company and intended to be included as a part of the Project.

**“Event of Default”** shall have the meaning ascribed to that term in **Section 9.01** of this Agreement.

**“Extended Investment Period”** shall mean the period beginning January 1 of the sixth (6<sup>th</sup>) year after the first year in which any portion of the Project is first placed in service, and ending on December 31 of the tenth (10<sup>th</sup>) year after such first year in which any portion of the Project is first placed in service.

**“FILOT Payments”** shall mean the payments in lieu of taxes which the Company is obligated to pay to the County pursuant to **Section 5.02** hereof.

**“Improvements”** shall mean those buildings, structures and fixtures on the Land as are constructed or acquired by the Company and are eligible for and intended to be included as a part of the Project.

**“Indemnified Party”** shall have the meaning ascribed to it by **Section 7.05** of this Agreement.

**“Infrastructure Agreement”** shall mean the Infrastructure Finance Agreement of even date herewith between the County and the Company.

**“Initial Investment Period”** shall mean the period of time ending on the December 31 of the fifth year after the first year in which any portion of the Project is first placed in service.

**“Investment Period”** shall mean the Initial Investment Period plus, if applicable pursuant to **Section 3.01(a)** hereof, the Extended Investment Period.

**“Land”** shall mean the real property upon which the Existing Building and the Project are or will be located, as the same is described on Exhibit A attached hereto.

**“Person”** shall mean and include any individual, association, limited liability company or partnership, trust, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

**“Project”** shall mean (i) the Land (that is, to the extent any portion thereof is eligible under the Act for the FILOT Payments), (ii) the Improvements, (iii) the Equipment, (iv) the Replacement Property, (v) any personal property to the extent acquired hereafter and intended to be included as a part of the Project which becomes so attached, integrated or affixed to any item described in the foregoing clauses that it cannot be removed without impairing the operating utility of such item as originally designed or damaging such item, and (vi) to the extent not covered by the foregoing, anything qualifying as a Project under Section 12-44-30(16) of the Act.

**“Project Increment Payment”** shall be the payment described in **Section 5.02(b)** hereof.

**“Project Increments”** shall mean those increments of the Project which are completed and fit for their intended use as prescribed by Section 12-37-670 of the Code during the Investment Period.

**“Project Millage Rate”** shall mean, for purposes of **Section 5.02(b)** hereof, the millage rate in effect for all taxing entities at the site of the Project as of June 30, 2019, which is understood by the parties hereto to be 326.3 mills.

**“Replacement Property”** shall mean all property installed on the Land or in the buildings, improvements and personal property theretofore constituting part of the Project to the extent that Section 12-44-60 of the Act permits such property to be included in the Project as replacement property.

**“State”** shall mean the State of South Carolina.

**“Term”** shall mean the duration of this Agreement as set forth in **Section 4.01** hereof.

**“Transfer Provisions”** shall mean the provisions of Section 12-44-120 of the Act, as amended or supplemented from time to time, concerning, among other things, the necessity of obtaining County consent to certain transfers.

Section 1.02    References to Agreement.

The words “hereof”, “herein”, “hereunder” and other words of similar import refer to this Agreement as a whole.

{End of Article I}

## ARTICLE II

### REPRESENTATIONS AND COVENANTS

#### Section 2.01 Representations and Covenants of the County.

The County Council makes the following representations and covenants, on behalf of itself and on behalf of the County, as the basis for the undertakings of the County herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. As represented by the Company, the Project constitutes and will constitute “economic development property” and a “project” within the meaning of the Act. The County has been duly authorized to execute and deliver this Agreement, all for the purpose of promoting the industrial development, developing the trade, and utilizing and employing the manpower, agricultural products and natural resources of the State.

(b) To the best knowledge of the undersigned representatives of the County, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the creation, organization or existence of the County or its governing body or the power of the County to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby; provided, however, that no representation is made by or on behalf of the County as to the validity, or the enforceability, of this Agreement.

(c) The County has caused the Land and all improvements thereon to be included in a joint county industrial and business park established with Greenville County pursuant to a joint county industrial and business park agreement dated as of December 1, 2010, as amended, (the “2010 Park”) and delivered pursuant to Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Code. The County will use its reasonable best efforts to cause the Project to remain located in such park or any other joint county industrial and business park established with an adjoining South Carolina county pursuant to such provisions of the South Carolina Constitution and the Code, or any successor provisions, for the term of this Agreement.

#### Section 2.02 Representations and Covenants by the Company.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation, validly existing and in good standing, under the laws of the State of \_\_\_\_\_. The Company has power to enter into this Agreement, and by proper action has been duly authorized to execute and deliver this Agreement. The Company’s tax year for federal income tax purposes begins January 1 and ends the following December 31.

(b) This Agreement constitutes a valid and binding commitment of the Company and the authorization, execution and delivery of this Agreement and the performance by the Company of its obligations hereunder will not conflict with or constitute a breach of, or a default under, (i) any existing law, court or administrative regulation, decree, or order, or (ii) any material agreement, mortgage, lease or other instrument, to which the Company is subject or by which it or its properties are bound which would have a material adverse affect on Company’s ability to perform its obligations hereunder. The Company has obtained, or will obtain or cause to be obtained in due course, all governmental and third party consents,

licenses and permits deemed by Company to be necessary or desirable for the acquisition, construction and operation of the Project as contemplated hereby, and will maintain all such consents, permits and licenses in full force and effect.

(c) No event has occurred and no condition currently exists with respect to the Company which would constitute a Default or an "Event of Default" as defined herein.

(d) The Company intends to operate the Project as a manufacturing facility in the County and for such other purposes permitted under the Act as the Company may deem appropriate. The Project will constitute a "project" and "economic development property" as provided under the Act.

(e) The execution and delivery of this Agreement by the County has been instrumental in inducing the Company to locate the Project in the County and in the State.

(f) To the best of the Company's knowledge, no actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, any of which involve the possibility of any material and adverse effect upon the transactions contemplated by this Agreement or the Company's performance of its obligations hereunder or which would materially adversely affect the validity or enforceability of this Agreement or any agreement or instrument to which the Company is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby.

[End of Article II]

## ARTICLE III

### ACQUISITION OF PROJECT

#### Section 3.01 Acquisition of Project.

(a) The Company hereby agrees that it will use commercially reasonable efforts to: (i) construct, (ii) make aggregate investment and (iii) create or cause to construct 100,000 additional square footage to an existing facility and use commercially reasonable efforts to (i) make an aggregate investment in the Project of \$13,000,000, and (ii) create or cause to be created by the Company or its affiliates or subsidiaries at least 200 new, full-time, jobs (with benefits) in connection therewith, all during the Initial Investment Period. The County agrees that if the Company meets the investment level set forth in clause (i) above by the end of the Initial Investment Period, the Company shall be entitled hereunder to the Extended Investment Period with respect to the Project. Failure by the Company to achieve either of the levels set forth in clauses (i) and (ii) above shall not result in an Event of Default under this Agreement.

(b) Each year during the term of the Agreement, the Company shall deliver to the County Auditor a copy of its most recent annual filings made with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department.

(c) The Company shall cause a copy of this Agreement, as well as a copy of the completed form PT-443 of the Department, to be filed with the County Auditor, the County Assessor, the County Treasurer and the Department within thirty (30) days after the date of execution and delivery hereof.

#### Section 3.02 Records and Reports.

The Company agrees to maintain complete books and records accounting for the acquisition, financing, construction and operation of the Project. Such books and records shall be made available to the County for its inspection upon reasonable notice and, further, shall:

- (a) permit ready identification of the various Project Increments and components thereof;
- (b) confirm the dates on which each Project Increment was placed in service; and
- (c) include copies of all filings made by the Company with the County Auditor or the Department with respect to property placed in service as part of the Project.

Notwithstanding any other provision of this Agreement, the Company may clearly designate, in writing, with respect to any filings or reports delivered to the County pursuant to the provisions of this Agreement, or segments thereof, that such filing or report contains proprietary, confidential or trade secret matters. Except as required by the South Carolina Freedom of Information Act or otherwise by law, the County Council, the County, its officers, elected officials and employees shall not knowingly disclose any such clearly identified confidential information regarding the Project, the Company, the Company's operations and any other competitively sensitive information which is not generally and independently known by the public, without the prior written authorization of the Company. The County shall notify the Company in the event of the County's receipt of any South Carolina Freedom of Information Act request concerning the aforesaid clearly identified, confidential information and, to the extent permitted by law, will not respond to such request until such time as the Company has reviewed the request and taken any action authorized by law to prevent its disclosure at the Company's sole expense. If the Company fails to act to prevent any disclosure of such information under the South Carolina Freedom of Information Act within ten

(10) days after the Company's receipt of notice of such request, or otherwise by the time which the County has identified by which it is required by law to provide such information, the County may provide such information as in its judgment is required to comply with such law.

[End of Article III]

## ARTICLE IV

### AGREEMENT TERM AND PAYMENT PROVISIONS

#### Section 4.01    Term.

Subject to the terms and provisions herein contained, with respect to each Project Increment, this Agreement shall be and remain in full force and effect for a term commencing on the date hereof, and ending at midnight on December 31 of the year which is the twenty-ninth (29<sup>th</sup>) year following the December 31 of the first tax year in which each Project Increment is placed in service, unless sooner terminated as herein permitted; provided that, if at the expiration of the Term payment of all FILOT Payments under **Section 5.02** hereof relating to the operation of the Project during the Term have not been made, the Term shall expire on such later date as such payments shall have been made in full or so provided for; provided, further, that such extension of the Term shall not increase the number of FILOT payments for which the Company qualifies under **Section 5.02** hereof.

#### Section 4.02    Additional Payments.

In addition to the Company's obligation under **Section 5.02** hereof to make FILOT Payments to the County and related amounts, the Company shall pay to the County, following receipt of such supporting documentation as may be necessary to evidence the County's right to receive payment, all other amounts, liabilities and obligations which the Company assumes or agrees to pay under this Agreement, including without limitation those obligations referred to in the immediately succeeding paragraph below (all such other amounts, liabilities and obligations hereinafter collectively called "Additional Payments"). In the event of any failure on the part of the Company to pay any Additional Payments, the County shall have all rights, powers and remedies provided for herein or by law or equity or otherwise.

The Company agrees to pay Administration Expenses to the County and indemnification payments pursuant to **Section 7.04** of this Agreement when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Agreement or the date which is forty-five (45) days after receiving written notice from the County or the Indemnified Party, as the case may be, accompanied by such supporting documentation as may be necessary to evidence the County's or Indemnified Party's right to receive such payment, specifying the nature of such expense and requesting payment of same. Notwithstanding the foregoing, the Company shall use its best good faith efforts to ensure that its defense obligations set forth in **Section 7.04** hereof shall be supplied in a timely manner such that the County shall not incur legal expenses in filing any responsive pleadings when due.

#### Section 4.03    FILOT Payments Secured by Tax Lien.

The County's right to receive FILOT Payments hereunder shall have a first priority lien status pursuant to Section 12-44-90 of the Act and Chapters 4 and 54 of Title 12 of the Code.

[End of Article IV]

## ARTICLE V

### MODIFICATION OF PROJECT; PAYMENTS IN LIEU OF TAXES

#### Section 5.01    Modification of Project.

The Company shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company may renovate any portion of the Project and, in connection therewith, to the extent permitted by the Act, install Replacement Property in the Project. Notwithstanding anything in this Agreement to the contrary, the Company shall be entitled in its discretion from time to time to delete or remove any portions of the Project, or to add any (non-Project) property as may be used in conjunction with the Project or otherwise.

(ii) In any instance where the Company in its discretion determines that any items of Equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for operations at the Project, the Company may remove such items of Equipment and sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without the consent of the County.

Notwithstanding anything herein to the contrary, and subject in all events to the terms and provisions of **Section 5.02** hereof, the FILOT Payments required under **Section 5.02** hereof shall, to the extent permitted by law, be reduced at such time to the extent that such payments are attributable to any of the Equipment, Improvements or Replacement Property which is removed or otherwise deleted from the Project and the Company shall not be required to repay any portion of the tax benefit received prior to such event.

#### Section 5.02    Payments in Lieu of Taxes.

(a) In accordance with the provisions of Section 12-44-50 of the Act, during the Term of this Agreement the Company shall make with respect to the Project annual FILOT Payments in the amounts set forth in this Section at the times and places, and in the same manner and subject to the same penalty assessments as prescribed by the County or the Department for *ad valorem* taxes. Such annual payments shall be made on or before each January 15 of each year during the term of this Agreement, commencing on January 15 of the year following the year which is after the year in which any portion of the Project is first placed in service. Subject to the provisions of the Act, each annual FILOT Payment shall be equal to the Project Increment Payment with respect to each Project Increment, including, subject to the provisions of the Act, Replacement Property for the Project originally included in such Project Increment, calculated as set forth in **Section 5.02(b)** hereof, for each of thirty (30) consecutive years (except to the extent that any portion of such Project Increment ceases to qualify for a negotiated fee in lieu of taxes under the Act) commencing with the year following the year in which the respective Project Increments are placed in service.

(b) Each Project Increment Payment shall be in an amount not less than the *ad valorem* taxes that would be due with respect to the applicable Project Increment if the same were taxable, but, subject to the provisions of Section 12-44-110 of the Act, using the following formula: each such Project Increment Payment shall be in an amount equal to the product which would result from multiplying the Project Millage Rate by an assessment ratio of six percent (6.0%) of the fair market value of the portion of the Project included within such Project Increment. Such fair market value shall be based on the original income tax basis for State income tax purposes for any real property and Improvements without regard to

depreciation (provided, the fair market value of real property, as the Act defines such term, that the Company obtains by construction or purchase in an arms-length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value is by appraisal) and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the FILOT Act specifically disallows. Notwithstanding the foregoing, the fair market value established for real property comprising the Project shall remain fixed for the Term.

(c) In the event that the Act and/or the above-described payments in lieu of taxes or any portion thereof, are declared invalid or unenforceable, in whole or in part, for any reason, the Company and the County express their intentions that such payments be reformed so as to afford the Company the maximum benefit then permitted by law, up to but not greater than the benefit afforded by this Agreement. In such event, the Company shall be entitled, to the extent allowed by law, (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by South Carolina Constitution Article X, Section 3, and any other exemption allowed by law from time to time; and (2) to enjoy all allowable depreciation.

(d) In the event the Company has not invested at least \$2,500,000 in the Project during the Initial Investment Period, then the Project shall be subject, retroactively to the first year with respect to which FILOT Payments were to have been made, to *ad valorem* tax treatment required by law, calculated as set forth in the Act and in **Section 5.02(c)** hereof, and the Company shall make payment to the County, within ninety (90)) days after the end of the Initial Investment Period, of the difference between the FILOT Payments actually made (taking into account any infrastructure credits received pursuant to the Infrastructure Agreement) and the total retroactive amount of *ad valorem* tax treatment required by law referred to above, plus interest in the manner as provided in Section 12-54-25 of the Code, or any successor provision.

(e) If at any time during the Term of this Agreement (after the end of the Initial Investment Period) the Company no longer maintains \$2,500,000 of investment (without regard to depreciation) in the Project, the Project shall, beginning with the tax year in which such deficiency first occurs, no longer qualify for the payments in lieu of taxes referred to in paragraph (b) of this **Section 5.02**, and shall thereafter be subject to *ad valorem* tax treatment.

[End of Article V]

## ARTICLE VI

### CASUALTY; CONDEMNATION

#### Section 6.01    FILOT Payments in the Event of Damage and Destruction or Condemnation.

In the event that the Project is damaged or destroyed or the subject of condemnation proceedings, which damage, destruction and/or condemnation would substantially impair the operating ability of the Project, the parties hereto agree that the FILOT Payments required pursuant to **Section 5.02** hereof shall be abated in the same manner and in the same proportion as with *ad valorem* taxes, subject in all events to the provisions of **Section 5.02** hereof.

[End of Article VI]

## ARTICLE VII

### PARTICULAR COVENANTS AND AGREEMENTS

#### Section 7.01 Rights to Inspect.

The Company agrees that the County and its authorized agents shall have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice, to have access to examine and inspect the Company's South Carolina property tax returns, as filed. The aforesaid rights of examination and inspection shall be exercised only upon such reasonable and necessary terms and conditions as the Company shall prescribe, which conditions shall be deemed to include, but not be limited to, those necessary to protect the Company's trade secrets and proprietary rights.

#### Section 7.02 Limitation of County's Liability.

Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

#### Section 7.03 Mergers, Reorganizations and Equity Transfers.

The Company acknowledges that any mergers, reorganizations or consolidations of the Company may cause the Project to become ineligible for negotiated fees in lieu of taxes under the Act absent compliance by the Company with the Transfer Provisions; provided that, to the extent provided by Section 12-44-120 of the Act or any successor provision, any financing arrangements entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of the Transfer Provisions. Notwithstanding anything in this Agreement to the contrary, it is not intended in this Agreement that the County shall impose transfer restrictions with respect to the Company or the Project as are any more restrictive than the Transfer Provisions.

#### Section 7.04 Indemnification Covenants.

(a) Notwithstanding any other provisions in this Agreement or in any other agreements with the County, the Company agrees to indemnify, defend and save the County, its members, officers, elected officials, employees, servants and agents (collectively, the "Indemnified Parties") harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on the Project, the Existing Building or the Land by the Company, its members, officers, shareholders, employees, servants, contractors, and agents during the Term, and, the Company further, shall indemnify, defend and save the Indemnified Parties harmless against and from all claims arising during the Term (regardless of when asserted) from (i) any condition of the Project, the Existing Building or the Land, (ii) any breach or default on the part of the Company in the performance of any of its obligations under this Agreement, (iii) any act of the Company or its agents, contractors, servants, employees or licensees, (iv) except in such cases where the County has released the Company pursuant to **Section 8.01** hereof, any act of any assignee or lessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Company, or (v) any environmental violation, condition, or effect with respect to the Project, the Existing Building or the Land. The Company shall indemnify, defend and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any

action or proceeding brought thereon, and upon notice from the County, the Company shall defend it in any such action, prosecution or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld).

(b) Notwithstanding the fact that it is the intention of the parties that the Indemnified Parties shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the granting of the fee in lieu of tax, by reason of the execution of this Agreement, by the reason of the performance of any act requested of it by the Company, or by reason of the County's relationship to the Project or the Existing Building or by the operation of the Project, the Existing Building or the Land by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County or any of the other Indemnified Parties should incur any such pecuniary liability, then in such event the Company shall indemnify, defend and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld); provided, however, that such indemnity shall not apply to the extent that any such claim is proximately caused by (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Agreement by the County.

(c) Notwithstanding anything in this Agreement to the contrary, the above-referenced covenants insofar as they pertain to costs, damages, liabilities or claims by any Indemnified Party resulting from any of the above-described acts of or failure to act by the Company or the Landlord, shall survive any termination of this Agreement.

#### Section 7.05 Qualification in State.

The Company warrants that it is duly qualified to do business in the State, and covenants that it will continue to be so qualified so long as it operates any portion of the Project.

#### Section 7.06 No Liability of County's Personnel.

All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the County and shall be binding upon any member of the County Council or any officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any officer, agent, servant or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

Section 7.07    Other Tax Matters.

Subject to the limitations expressly set forth in **Section 5.02(b)** hereof, the Company shall be entitled to all state and federal investment tax credits, allowances for depreciation and other similar tax provisions allowable by applicable federal or State law with respect to the Project, to the extent allowed or otherwise not prohibited by the Act.

[End of Article VII]

## ARTICLE VIII

### ASSIGNMENT OR LEASE OF THIS AGREEMENT; SURVIVAL OF COMPANY'S OBLIGATION

#### Section 8.01    Assignment or Lease.

The Company may assign or otherwise transfer any of its rights and interest hereunder to an assignee or lessee, as the case may be, in compliance with the Transfer Provisions, including the requirement that any such assignment or lease shall be subject to the written consent of the County. In these regards, the County agrees that such consent shall not be unreasonably withheld, conditioned or delayed. The County hereby consents to any transfers by the Company to any affiliate of the Company at any time; provided that the Company gives written notice to the County Auditor, the County Assessor, the County Treasurer and the Department of such transfer to an affiliate of the Company within ninety (90) days following such transfer. For such purposes, "affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Company. Further, the County agrees that, to the extent permitted by Section 12-44-120(B) of the Act, or any successor provision, any financing arrangements entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of requiring consent to the same on the part of the County.

[End of Article VIII]

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

#### Section 9.01 Events of Default.

Any one or more of the following events (herein called an “Event of Default”, or collectively “Events of Default”) shall constitute an Event of Default by the Company:

(a) if default shall be made in the due and punctual payment of any FILOT Payments or related payments under **Section 5.02** hereof, or any Additional Payments, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County;

(b) if default shall be made by the Company in the due performance of or compliance with any of the material terms hereof, including payment, other than those referred to in the foregoing subdivision (a), and such default shall continue for ninety (90) days after the County shall have given the Company written notice of such default; or

(c) if any material representation or warranty made by the Company herein or any statement, certificate or indemnification furnished or delivered by the Company in connection with the execution and delivery of this Agreement, proves untrue in any material respect as of the date of the issuance or making thereof or knowingly violated or breached, as the case may be.

#### Section 9.02 Remedies on Event of Default.

Upon the occurrence of any Event of Default, the County may: (i) terminate this Agreement by provision of thirty (30) days’ notice to the Company in writing specifying the termination date; or (ii) take whatever action at law or in equity as may appear necessary or desirable to collect any FILOT Payments and Additional Payments then due or to enforce observance or performance of any covenant condition or agreement of the Company under this Agreement, including without limitation enforcement of a statutory lien on the Project for any non-payment of FILOT Payments hereunder.

#### Section 9.03 Collection of FILOT Payments.

In addition to all other remedies herein provided, the non-payment of FILOT Payments shall constitute a lien for tax purposes as provided in Section 12-44-90 of the Act. In this regard, and notwithstanding anything in this Agreement to the contrary, the County may exercise the remedies provided by general law (including, without limitation, Title 12, Chapter 49, of the Code) relating to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

[End of Article IX]

**ARTICLE X**  
**MISCELLANEOUS**

Section 10.01 Termination.

Prior to the stated expiration of the Term of this Agreement, the Company may, at any time by written notice to the County, provide for the termination of this Agreement, effective immediately upon giving such notice or upon such date as may be specified in the notice; provided that the Company shall have made payment to the County of all applicable payments payable under this Agreement as of such time. Upon any such termination, and subject to any provisions herein which shall by their express terms be deemed to survive any termination of this Agreement, the sole consequence to the Company shall be that it shall no longer be entitled to the benefit of the fee in lieu of payments provided herein and the property constituting the Project shall thereafter be subject to the *ad valorem* tax treatment required by law and, except as may be expressly provided herein, in no event shall the Company be required to repay to the County the amount of any tax benefit previously received hereunder.

Section 10.02 Rights and Remedies Cumulative.

Each right, power and remedy of the County or of the Company provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Company of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company of any or all such other rights, powers or remedies.

Section 10.03 Successors and Assigns.

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 10.04 Notices; Demands; Requests.

All notices, demands and requests to be given or made hereunder to or by the County or the Company, shall be in writing, and shall be deemed to be properly given or made if sent by United States certified first class mail, return receipt requested, postage prepaid and addressed as follows or at such other places as may be designated in writing by such party.

- (a) As to the County:  
Anderson County, South Carolina  
Post Office Box 8002  
Anderson, South Carolina 29622  
Attn: County Administrator

with a copy to (which shall not constitute notice to the County):

Anderson County Attorney  
Post Office Box 8002  
Anderson, South Carolina 29622

(b) As to the Company:  
[Project Switch]

\_\_\_\_\_  
Attn: \_\_\_\_\_

with a copy to (which shall not constitute notice to the Company):

J. Philip Land, Jr., Esq.  
Haynsworth Sinkler Boyd, P.A.  
ONE North Main, 2<sup>nd</sup> Floor  
Greenville, South Carolina 29601  
[pland@hsblawfirm.com](mailto:pland@hsblawfirm.com)

Section 10.05 Applicable Law; Entire Understanding.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of South Carolina. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 10.06 Severability.

In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, such clause or provisions shall be reformed to provide as near as practicable the legal effect intended by the parties hereto, and the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 10.07 Headings and Table of Contents; References.

The headings of this Agreement and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular Articles or Sections or subdivisions of this Agreement are references to the designated Articles or Sections or subdivision of this Agreement.

Section 10.08 Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 10.09 Amendments.

This Agreement may be amended only by a writing signed by all of the parties.

Section 10.10 Waiver.

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

Section 10.11 Business Day.

In the event that any action, payment or notice is, by the terms of this Agreement, required to be taken, made or given on any day which is a Saturday, Sunday or a legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment or notice may be taken, made or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

[End of Article X]

**IN WITNESS WHEREOF**, Anderson County, South Carolina, has executed this Agreement by causing its name to be hereunto subscribed by the Chairman of its County Council and to be attested to by the Clerk of its County Council, and [Project Switch] has executed this Agreement by its authorized officer, all being done as of the day and year first above written.

**FOR ANDERSON COUNTY:**

(SEAL)

By: \_\_\_\_\_  
Tommy Dunn, Chairman,  
Anderson County Council

**ATTEST:**

By: \_\_\_\_\_  
Lacey Croegaert  
Anderson County Clerk to Council

[Signature Page 1 – Fee in Lieu of Tax Agreement]

[PROJECT SWITCH]

(SEAL)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Signature Page 2 – Fee in Lieu of Tax Agreement]

EXHIBIT A

DESCRIPTION OF THE LAND

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**INFRASTRUCTURE FINANCE AGREEMENT**

between

**ANDERSON COUNTY, SOUTH CAROLINA,**

and

**PROJECT SWITCH**

Dated as of \_\_\_\_\_, 2021

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## INFRASTRUCTURE FINANCE AGREEMENT

**THIS INFRASTRUCTURE FINANCE AGREEMENT**, dated as of \_\_\_\_\_, 2021 (the “Agreement”), between **ANDERSON COUNTY, SOUTH CAROLINA**, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), and **PROJECT SWITCH**, a corporation organized and existing under the laws of the State of \_\_\_\_\_ (the “Company”).

### WITNESSETH:

**WHEREAS**, the County, acting by and through its County Council (the “County Council”) is authorized by Title 4, Section 1 of the Code of Laws of South Carolina 1976, as amended (the “Multi-County Park Act”), to provide infrastructure credit financing, secured by and payable solely from revenues of the County derived from payments in lieu of taxes pursuant to Article VIII, Section 13 of the South Carolina Constitution, for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County, all within the meaning of Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the “Infrastructure”); and

**WHEREAS**, the Company has represented its intention to invest in the acquisition, construction and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to expand an existing manufacturing facility in the County (collectively, the “Project”), which will result in an aggregate expected investment by the Company in the Project and of approximately \$13,000,000 in non-exempt investment and the expected creation of approximately 200 new, full-time, jobs (with benefits) by the Company or its affiliates and subsidiaries in connection therewith, by December 31 of the fifth year after the first year which any portion of the Project is first placed in service (the “Initial Investment Period”); and

**WHEREAS**, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County has placed the site of the existing building and on which the Project will be located in a multi-county industrial and business park established by the County pursuant to qualifying agreement with Greenville County dated December 1, 2010, as amended (the “Park Agreement”); and

**WHEREAS**, pursuant to the provisions of the Park Agreement, the Company is obligated to make or cause to be made payments in lieu of taxes in the total amount equivalent to the *ad valorem* property taxes, or, if applicable, any negotiated payments in lieu of taxes pursuant to the Code of Laws of South Carolina 1976, as amended, including Title 12, Chapter 44 thereof (the “FILOT Act”), that would have been due and payable but for the location of the Project within the Park; and

**WHEREAS**, the County and the Company have entered into a Fee in Lieu of Tax Agreement of even date herewith (the “Fee Agreement”) providing for certain payments in lieu of taxes by the Company with respect to the Project pursuant to the FILOT Act; and

**WHEREAS**, pursuant to the Multi-County Park Act, the County has agreed to provide certain credits to the Company in respect of the Company’s investment in the Infrastructure with respect to the Project and any other property acquired by the Company in connection therewith and is delivering this Agreement in furtherance thereof; and

**WHEREAS**, the County Council has duly authorized execution and delivery of this Agreement by ordinance duly enacted by the County Council on \_\_\_\_\_, 2021, following conducting a public hearing on \_\_\_\_\_, 2021;

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

## **ARTICLE I**

### **DEFINITIONS**

The terms defined in this Article I shall for all purposes of this Agreement have the meanings herein specified, unless the context clearly otherwise requires. Except where the context otherwise requires, words importing the singular number shall include the plural number and *vice versa*.

*"Agreement"* shall mean this Agreement, as the same may be amended, modified or supplemented in accordance with the terms hereof.

*"Code"* shall mean the Code of Laws of South Carolina 1976, as amended.

*"Company"* shall have the meaning set forth with respect to such term in the recitals to this Agreement.

*"Cost of the Infrastructure"* shall mean to extent permitted by law, the cost of acquiring, by construction and purchase, the Infrastructure and shall be deemed to include, whether incurred prior to or after the date of this Agreement: (a) obligations incurred for labor, materials, and other expenses to builders and materialmen in connection with the acquisition, construction, and installation of the Infrastructure; (b) the cost of design and engineering of the Infrastructure; (c) the cost of construction bonds and of insurance of all kinds that may be required or necessary during the course of construction and installation of the Infrastructure, which is not paid by the contractor or contractors or otherwise provided for; (d) the expenses for test borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction, and installation of the Infrastructure; (e) all other costs which shall be required under the terms of any contract for the acquisition, construction, and installation of the Infrastructure; and (f) all legal, accounting and related costs properly capitalizable to the cost of the Infrastructure.

*"County"* shall mean Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina and its successors and assigns.

*"Fee Agreement"* shall mean the Fee in Lieu of Tax Agreement dated as of even date herewith between the County and the Company, as the same may be amended or supplemented.

*"Fee Payments"* shall mean the payments in lieu of taxes made by the Company with respect to the Project under the Fee Agreement or otherwise by virtue of the Project's location in (a) the Park or (b) in any joint county industrial park created by the County and a partner county pursuant to a successor agreement to the Park Agreement qualifying under Section 4-1-170 of the Multi-County Park Act or any successor provision.

*"FILOT Act"* shall mean Title 12, Section 44, of the Code.

*"FILOT Equivalent Credits"* shall have the meaning set forth in Section 3.02(b) hereof.

*"Infrastructure"* shall mean infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of the Project, within the meaning of Section 4-29-68 of the Code.

*"Infrastructure Credits"* shall mean the Project Credits and the FILOT Equivalent Credits.

*"Initial Investment Period"* shall have the meaning set forth with respect to such term in the recitals to this Agreement.

*"Investment Requirement"* shall mean investment by the Company of at least \$13,000,000 of otherwise fully taxable investment in the Project pursuant to the Fee Agreement.

*"Jobs Requirement"* shall mean the creation by the Company or its affiliates or subsidiaries of at least two hundred (200) new, full-time, jobs (with benefits) at the Project.

*"Land"* shall mean the real property upon which the the Project are or will be located, as the same is described on Exhibit A attached hereto.

*"Multi-County Park Act"* shall mean Title 4, Chapter 1 of the Code, and all future acts amendatory thereto.

*"Ordinance"* shall mean the ordinance enacted by the County Council on \_\_\_\_\_, 2021, authorizing the execution and delivery of this Agreement.

*"Park Agreement"* shall mean the Agreement for Development of a Joint County Business and Industrial Park (2010 Park), dated December 1, 2010, as amended, between the County and Greenville County, as the same may be amended or supplemented from time to time, or such other agreement as the County may enter with respect to the Project to offer the benefits of the Infrastructure Credits to the Company hereunder.

*"Park"* shall mean (i) the joint county industrial park established pursuant to the terms of the Park Agreement and (ii) any joint county industrial park created pursuant to a successor park agreement delivered by the County and a partner county in accordance with Section 4-1-170 of the Act, or any successor provision, with respect to the Project.

*"Person"* shall mean an individual, a corporation, a partnership, an association, a joint stock or limited liability company, a trust, any unincorporated organization, or a government or political subdivision.

*"Project"* shall mean the "Project" as defined in the Fee Agreement.

*"Project Credits"* shall have the meaning set forth in Section 3.02(a) hereof.

*"State"* shall mean the State of South Carolina.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

SECTION 2.01. Representations by the County. The County makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the County Council, the County has been duly authorized to execute and deliver this Agreement and any and all agreements collateral thereto.

(b) The County proposes to provide the Infrastructure Credits to reimburse the Company for Cost of the Infrastructure for the purpose of promoting economic development of the County.

(c) To the best knowledge of the undersigned representatives of the County, the County is not in violation of any of the provisions of the laws of the State, where any such default would affect the validity or enforceability of this Agreement.

(d) To the best knowledge of the undersigned representatives of the County, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the creation, organization or existence of the County or its governing body or the power of the County to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby; provided, however, that no representation is made by or on behalf of the County as to the validity, or the enforceability, of this Agreement.

SECTION 2.02. Representations and Covenants by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation duly organized, validly existing, and in good standing under the laws of the State of \_\_\_\_\_, has power to enter into this Agreement and to carry out its obligations hereunder, and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, will result in a material breach of any of the terms, conditions, or provisions of any corporate restriction or any agreement or instrument to which the Company is now a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of the Company, other than as may be created or permitted by this Agreement.

(c) To the best knowledge of the Company, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the power of the Company to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or would affect the validity, or adversely affect the enforceability, of this Agreement, or any other agreement or instrument to which the Company is a party and which is to be used in connection with or is contemplated by this Agreement, nor to the best of the knowledge of the Company is there any basis therefore.

SECTION 2.03. Covenants of the County.

(a) To the best of its ability, the County will at all times maintain its corporate existence and will use its best efforts to maintain, preserve, and renew all its rights, powers and privileges; and it will comply with all valid acts, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body applicable to this Agreement.

(b) The County agrees that it will use its best reasonable efforts to cause the Project, pursuant to Section 4-1-170 of the Multi-County Park Act, to remain located in a duly authorized, executed and delivered successor joint county industrial park agreement with an adjoining South Carolina county for the term of this Agreement.

(c) The County covenants that it will from time to time, at the request and expense of the Company, execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Agreement; provided, however, that such instruments or actions shall never create or constitute a general obligation or an indebtedness of the County within the meaning of any State constitutional provision (other than the provisions of Article X, Section 14(10) of the South Carolina Constitution) or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power or pledge the full faith, credit or taxing power of the State, the County or any other political subdivision of the State.

**ARTICLE III**

**INFRASTRUCTURE CREDITS**

SECTION 3.01. Payment of Costs of Infrastructure.

The Company shall be responsible for payment of all Costs of the Infrastructure with respect to the Project as and when due.

SECTION 3.02. Standard Credits; Offset Credits.

(a) In order to reimburse the Company for Cost of Infrastructure with respect to the Project, commencing with the annual Fee Payment to be first payable on or before January 15 of the year following the year which is after the first year in which any portion of the Project is first placed in service, the County shall provide to the Company credits for a period of the first ten (10) and the second ten (10) years under the Fee Agreement equal to 75% (first ten (10) years) and 50% (second ten (10) years), respectively, of that portion of Fee Payments payable by the Company with respect to the Project, such credits to be calculated and applied after payment by the County of the one percent (1%) amount due the non-host county under the Park Agreement (the "Project Credits").

(b) Notwithstanding anything herein to the contrary, under no circumstances shall the Company be entitled to claim or receive any abatement of *ad valorem* taxes for any portion of the investment in the Project for which an Infrastructure Credit is taken.

(c) In no event shall the aggregate amount of all Infrastructure Credits claimed by the Company exceed the amount expended by it with respect to the Infrastructure at any point in time. The Company shall be responsible for making written annual certification as to compliance with the provisions of the preceding sentence through the delivery of a certification in substantially the form attached hereto as Exhibit B.

(d) Notwithstanding anything herein to the contrary, should the Company fail by the end of the Initial Investment Period to either (a) meet the Investment Requirement or (b) meet, or cause to be met, the Jobs Requirement, then (i) the Project Credits shall be reduced, prospectively beginning with the sixth (6<sup>th</sup>) year of FILOT payments, to 50% annually and shall terminate after the first ten (10) years of receiving any Project Credit. If the \$13,000,000 of non-exempt investment in the Project and at least two hundred (200) new, full-time, jobs (with benefits) with respect to the Project are in place by the end of the seventh (7<sup>th</sup>) calendar year after the Project is first placed in service then the Project Credits may return to their original amounts, no lost incentive may be claimed.

(e) The Company shall be responsible for providing the County, on an annual basis through the end of the Initial Investment Period and prior to receipt of any Infrastructure Credits, the investment made by the Company in the Project, and the number of new, full-time jobs (with benefits) created with respect thereto, as of each calendar year-end during the Initial Investment Period, such certification to be substantially in the form attached hereto as Exhibit C.

(f) To the extent provided in Section 4-29-68 of the Code, to the extent any Infrastructure Credit is taken against fee in lieu of tax payments on personal property, and the personal property is removed from the Project site at any time during the term of the Fee Agreement (and not replaced with qualifying replacement property), the amount of the fee in lieu of taxes due on the personal property for the year in which the personal property was removed from the Project site shall be due for the two (2) years immediately following such removal.

(g) THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE

FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED FOR THE INFRASTRUCTURE CREDITS.

(h) No breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The liability of the County under this Agreement or of any warranty herein included or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the payments in lieu of taxes with respect to the Fee Payments for the Project, in the Park. The County shall not be required to execute or perform any of its duties, obligations, powers, or covenants hereunder except to the extent of such payments in lieu of taxes and the Fee Payments.

#### **ARTICLE IV**

##### **CONDITIONS TO DELIVERY OF AGREEMENT; TITLE TO PROJECT**

SECTION 4.01. Documents to be Provided by County. Prior to or simultaneously with the execution and delivery of this Agreement, the County shall provide to the Company:

(a) A copy of the Ordinance, duly certified by the Clerk of the County Council to have been duly enacted by the County and to be in full force and effect on the date of such certification; and

(b) A copy of the Park Agreement, duly certified by the Clerk of the County Council to have been duly enacted by the County and to be in full force and effect on the date of such certification; and

(c) Such additional related certificates, instruments or other documents as the Company may reasonably request in a form and substance acceptable to the Company and the County.

SECTION 4.02. Transfers of Project; Assignment of Interest in this Agreement by the Company. Subject to the provisions of Section 7.01 hereof, the County hereby acknowledges that the Company may from time to time and in accordance with applicable law, sell, transfer, lease, convey, or grant the right to occupy and use the Project, in whole or in part, or assign its interest in this Agreement, to others; provided, however, that any transfer by the Company of any of its interest in this Agreement to any other Person shall require the prior written consent of the County, which shall not be unreasonably withheld. No such sale, lease, conveyance, grant or assignment shall relieve the County from the County's obligations to provide Infrastructure Credits to the Company or any assignee of the same, under this Agreement as long as such assignee is qualified to receive Infrastructure Credits under the Multi-County Park Act.

SECTION 4.03. Assignment by County. The County shall not assign, transfer, or convey its obligations to provide Infrastructure Credits hereunder to any other Person, except as may be required by South Carolina law.

## ARTICLE V

### DEFAULTS AND REMEDIES

SECTION 5.01. Events of Default. If the County or the Company shall fail duly and punctually to perform any covenant, condition, agreement or provision contained in this Agreement on its part to be performed, which failure shall continue for a period of thirty (30) days after written notice by the County or the Company, respectively, specifying the failure and requesting that it be remedied is given to the County by the Company, or to the Company by the County, by first-class mail, the County or the Company, respectively, shall be in default under this Agreement (an “Event of Default”).

SECTION 5.02. Remedies and Legal Proceedings by the Companies or the County. Upon the happening and continuance of any Event of Default, then and in every such case the Company or the County, as the case may be, in their discretion may:

- (a) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its or their rights and require the other party to carry out any agreements with or for its benefit and to perform its or their duties under the Act and this Agreement;
- (b) bring suit upon this Agreement;
- (c) exercise any or all rights and remedies provided by applicable laws of the State; or
- (d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

SECTION 5.03. Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved to the County or the Company hereunder is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

SECTION 5.04. Nonwaiver. No delay or omission of the County or the Company to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or an acquiescence therein; and every power and remedy given by this Article V to any party may be exercised from time to time and as often as may be deemed expedient.

## ARTICLE VI

### MISCELLANEOUS

SECTION 6.01. Termination. Subject to Sections 5.01 and 5.02 above, this Agreement shall terminate on the date upon which all Infrastructure Credits provided for in Section 3.02 hereof have been credited to the Company.

SECTION 6.02. Successors and Assigns. All the covenants, stipulations, promises, and agreements in this Agreement contained, by or on behalf of, or for the benefit of, the County, shall bind or inure to the benefit of the successors of the County from time to time and any officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County, shall be transferred.

SECTION 6.03. Provisions of Agreement for Sole Benefit of the County and the Company. Except as in this Agreement otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any Person 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 6.04. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, the illegality or invalidity shall not affect any other provision of this Agreement, and this Agreement, the Infrastructure Credits shall be construed and enforced as if the illegal or invalid provisions had not been contained herein or therein.

SECTION 6.05. No Liability for Personnel of the County or the Company. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any member, agent, or employee of the County or its governing body or the Company or any of their officers, employees, or agents in his individual capacity, and neither the members of the governing body of the County nor any official executing this Agreement shall be liable personally on the Infrastructure Credits or this Agreement or be subject to any personal liability of accountability by reason of the issuance thereof.

SECTION 6.06. Notices. All notices, certificates, requests, or other communications under this Agreement shall be sufficiently given and shall be deemed given, unless otherwise required by this Agreement, when (i) delivered or (ii) sent by facsimile and confirmed by United States certified mail, return-receipt requested, restricted delivery, postage prepaid, addressed as follows:

(a) if to the County: Anderson County, South Carolina  
Post Office Box 8002  
Anderson, South Carolina 29622  
Attn: Anderson County Administrator

with a copy to: Anderson County Attorney  
(which shall not Post Office Box 8002  
constitute notice Anderson, South Carolina 29622  
to the County)

(b) if to the Company: [Project Switch]

\_\_\_\_\_  
Attn:

with a copy to: Haynsworth Sinkler Boyd, P.A.  
(which shall not ONE North Main, 2<sup>nd</sup> Floor  
constitute notice Greenville, South Carolina 29601  
to the Company) Attn: J. Philip Land, Jr.  
[pland@hsblawfirm.com](mailto:pland@hsblawfirm.com)

A duplicate copy of each notice, certificate, request or other communication given under this Agreement to the County or the Company shall also be given to the others. The County and the Company may, by notice given under this Section 6.06, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

SECTION 6.07. Applicable Law. The laws of the State of South Carolina shall govern the construction of this Agreement.

SECTION 6.08. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6.09. Amendments. This Agreement may be amended only by written agreement of the parties hereto.

SECTION 6.10. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

SECTION 6.11. Indemnity.

(a) Notwithstanding the fact that it is the intention of the parties that the County, its members, officers, elected officials, employees, servants and agents (collectively, the “Indemnified Parties”) shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the granting of the Infrastructure Credits, by reason of the execution of this Agreement, by the reason of the performance of any act requested of it by the Company, or by reason of the County’s relationship to the Project or by the operation of the Project by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County or any of the other Indemnified Parties should incur any such pecuniary liability, then in such event the Company shall indemnify, defend and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld); provided, however, that such indemnity shall not apply to the extent that any such claim is proximately caused by (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Agreement by the County.

(b) Notwithstanding anything in this Agreement to the contrary, the above-referenced covenants insofar as they pertain to costs, damages, liabilities or claims by any Indemnified Party resulting from any of the above-described acts of or failure to act by the Companies, shall survive any termination of this Agreement.

*[Signature pages to follow]*

**IN WITNESS WHEREOF**, Anderson County, South Carolina, has caused this Agreement to be executed by the Chairman of Anderson County Council and its corporate seal to be hereunto affixed and attested by the Clerk of its County Council and [Project Switch] has caused this Agreement to be executed by its authorized officer, all as of the day and year first above written.

**ANDERSON COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
Tommy Dunn, Chairman,  
Anderson County Council

ATTEST:

By: \_\_\_\_\_  
Lacey Croegaert  
Anderson County Clerk to Council

*[Signature page 1 to Infrastructure Finance Agreement]*

[PROJECT SWITCH]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Signature page 2 to Infrastructure Finance Agreement]*

**EXHIBIT A**

**REAL PROPERTY DESCRIPTION**

**EXHIBIT B**

**INFRASTRUCTURE INVESTMENT CERTIFICATION**

I \_\_\_\_\_, the \_\_\_\_\_ of [Project Switch] (the "Company"), do hereby certify in connection with the Infrastructure Finance Agreement dated as of \_\_\_\_\_, 2021 between Anderson County, South Carolina and the Company (the "Agreement"), as follows:

(1) As of December 31, 20\_\_, the total amount of Infrastructure Credits received by the Company is \$\_\_\_\_\_.

(2) As of December 31, 20\_\_, the total amount of investment in Costs of Infrastructure by the Company is not less than \$\_\_\_\_\_.

All capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

**IN WITNESS WHEREOF**, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**[PROJECT SWITCH]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT C**

**INVESTMENT AND JOB CREATION CERTIFICATION**

I \_\_\_\_\_, the \_\_\_\_\_ of [Project Switch] (the "Company"), do hereby certify in connection with the Infrastructure Finance Agreement dated as of \_\_\_\_\_, 2021 between Anderson County, South Carolina and the Company (the "Agreement"), as follows:

(1) The total investment made by the Company in the Project as of December 31, 20\_\_ is \$\_\_\_\_\_.

(2) The current total full-time employment (with benefits) of the Company or its affiliates or subsidiaries at the Project as of December 31, 20\_\_ is \_\_\_\_\_ persons.

All capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

**IN WITNESS WHEREOF**, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**[PROJECT SWITCH]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ORDINANCE NO. 2021-016**

**AN ORDINANCE TO AMEND SECTION 38-331 OF THE CODE OF ORDINANCES, ANDERSON COUNTY, SOUTH CAROLINA SO AS TO ADD A NEW SUBSECTION (G) TO ADDRESS THE PERIOD OF TIME OF FINAL PLAT APPROVAL FOR COMPLETION OF IMPROVEMENTS; AND OTHER MATTERS RELATED THERETO. (TITLE ONLY)**

**ORDINANCE NO. 2021-017**

**AN ORDINANCE TO AMEND SECTION 66-43 OF THE CODE OF ORDINANCES, ANDERSON COUNTY, SOUTH CAROLINA SO AS TO ADD A NEW SUBSECTION (H) TO ADDRESS THE TIME PERIOD FOR COMPLETION OF THE SEWER SYSTEM EXTENSION; AND OTHER MATTERS RELATED THERETO. (TITLE ONLY)**

# Anderson County Purchasing Department Bid Tabulation

BID# 21-040 GREEN POND AMPHITHEATER

	Vendor	addend. & bond	BID / ALT. BID
1	BELK		BASE \$451,682.00
2			ALT. A \$224,700.00
3			ALT. B \$55,610.00
4			ALT. C \$118,952.00
5			ALT. D \$20,495.00
6			ALT. E \$12,000.00
7	J M COPE		BASE \$888,165.00
8			ALT. A \$147,226.00
9			ALT. B \$55,446.00
10			ALT. C \$102,913.00
11			ALT. D \$16,896.00
12			ALT. E \$12,827.00
13	ONE OFF CONSULTING		NO RESPONSE
14	BRETT CHANDLER		NO RESPONSE

	Vendor	addend. & bond	BID / ALT. BID
15	THG		NO RESPONSE
16	GLENN CONSTRUCTORS		NO RESPONSE
17	ATTAWAY CONSTRUCTION		NO RESPONSE
18	N T GRADING		NO RESPONSE
19	CLAYTON CONSTRUCTION		NO RESPONSE
20	SOUTHEASTERN CRANE		NO RESPONSE
21	PHILLIPS BROTHERS		NO RESPONSE
22	DURHAM GREENE INC.		NO RESPONSE
23	SUMMIT CONSTRUCTION		NO RESPONSE
24	MOORHEAD		NO RESPONSE
25	GREENSTONE CONSTRUCTION		NO RESPONSE
26	ROGERS GROUP		NO RESPONSE
27	GEO STRUCTURES		NO RESPONSE
28	CASAREZ CONSTRUCTION		NO RESPONSE

	Vendor	addend. & bond	BID / ALT. BID
29	SATCHEL CONSTRUCTION		NO RESPONSE
30	KIEWIT		NO RESPONSE
31	CHURCHICH RECREATION		NO RESPONSE
32	MILLER CONSTRUCTION		NO RESPONSE
33	EARTH MATERIALS		NO RESPONSE
34	J DAVIS		NO RESPONSE
35	WETZEL		NO RESPONSE
36	RANDOLPH AND SONS		NO RESPONSE
37	AOS		NO RESPONSE
38	HARPER GC		NO RESPONSE
39	STERLING		NO RESPONSE
40	SPRATLING AND SONS		NO RESPONSE
41	N E CONSTRUCTORS		NO RESPONSE
42	S AND S		NO RESPONSE

	Vendor	addend. & bond	BID / ALT. BID
43	LANGSTON		NO RESPONSE
44	NEW TERRAIN GRADING		NO RESPONSE
45	CAPITOL CONSTRUCTION		NO RESPONSE
46	PALMETTO GROUP		NO RESPONSE
47	MAR		NO RESPONSE
48	SOSSMAN		NO RESPONSE
49	HOGAN		NO RESPONSE
50	PIEDMONT LLC		NO RESPONSE
51	UPSTATE GRADING		NO RESPONSE
52	CONTRACTOR SERVICES OF KERSHAW		NO RESPONSE
53	PREMIUM PARK PRODUCTS		NO RESPONSE
54			
55			
56			
<b>AWARD TO:</b>			<i>The Belk Company</i>

## SECTION IV: Addendum A

### BID FORM

Name of Party submitting the Bid: The Belk Company LLC

To: Purchasing Manager for Anderson County

Pursuant to the Notice Calling for Bids and the other Bid documents contained in the Bid package, the undersigned party submitting the Bid, having conducted a thorough inspection and evaluation of the Specifications contained therein, hereby submit the following pricing set forth herein:

Bid: #21-040 GREEN POND LANDING AMPHITHEATER PROJECT

#### Base Bid

Item	Unit	Quantity	Unit Cost	Cost
Mobilization	LS	1		5,000.00
Surveying	LS	1		12,000.
Grading	LS	1		127,000.
Silt Fencing	LF	1200	2.75	3300.
Outlet Protection	EA	1		600
Inlet Protection	EA	8	462.50	3700
Catch Basin Inlet Filters	EA	6	1100	6600.00
Concrete Washout	EA	1		1,000.
24" Rolled Concrete Curb and Gutter	LF	340	42	14,280.00
4" Concrete Sidewalk	SY	290	68	19,720.
6" Concrete Sidewalk	SY	3	78	234.
SCDOT Driveway Apron	LS	1		1700.
6" Graded Aggregate Base Course	SY	1895	11.	20,845
ADS Drainage Basins	EA	4	1647	6,588
Precast Drainage Structures	EA	2	3000	6,000.
Convert Ex. Outlet Structure to MH	EA	1		2600.
Extend Restroom Foundation Drains	LS	1		2000.
6" Sch. 40 PVC Sleeves	LF	270	16.50	4455.
18" HDPE	LF	30	42.50	1275
15" RCP	LF	90	34.50	3105
12" HDPE	LF	215	22	4730
Redi-Rock Seating and Stairs	LS	1		186,000
Turf Reinforcement Matting	SY	1775	2.	3550.
Grassing - Permanent	AC	1.80	2500	4500.
Grassing - Sod	SY	1010	10	10,100.
TOTAL				451,682.

451,682.

**Alternate A - Concrete Amphitheater Seating and Stairs**

Item	Unit	Quantity	Unit Cost	Cost
Reinforced Concrete Seating and Stairs	LS	1		224,700.

**Alternate B - Plaza Paving**

Item	Unit	Quantity	Unit Cost	Cost
8" Concrete Pavement	SY	670	94	62,980.
Deduct 6" Graded Agg. Base Course	SY	670	( 11. )	( 7370 )
TOTAL				55,610. <sup>03</sup>

**Alternate C - ADA Parking, Sidewalk & Paving**

Item	Unit	Quantity	Unit Cost	Cost
Asphalt and Curbed Areas Demolition	LS	1		1500
Grading for Bioswale Removal	LS	1		20,000
Inlet Protection	EA	1		460
Catch Basin Inlet Filters	EA	1		1100
18" Concrete Curb and Gutter	LF	181	42	7602
4" Concrete Sidewalk	SY	53	68	3604
6" Concrete Sidewalk	SY	197	78	15,366
8" Concrete Pavement	SY	200	94	18,800
Asphalt Pavement Section	SY	1380	37	51,060.
Deduct 6" Graded Agg. Base Course	SY	1225	( 11 )	( 13,475 )
Precast Drainage Structures	EA	2	3000	6000
Convert Ex. Outlet Structure to MH	EA	1		2500
18" HDPE	LF	45	43	1935
Signs/Markings	LS	1		2500
TOTAL				118,932. <sup>04</sup>

**Alternate D - Construction Entrance Paving**

Item	Unit	Quantity	Unit Cost	Cost
Demolition and Grading of Const. Ent.	LS	1		8,100.
Asphalt Pavement Section	SY	335	37	12,395.
TOTAL				20,495.

**Alternate E - Stain and Seal Redi-Rock Amphitheater Seating and Stairs**

Item	Unit	Quantity	Unit Cost	Cost
Stain/Seal Redi-Rock Seating and Stairs	LS	1		12,000.

## **EXHIBIT A**

### **Green Pond Landing Amphitheater Project**

#### **SCOPE OF WORK**

##### **General:**

Project is located at the Green Pond Landing and Event Center facility on Lake Hartwell, at the west end of Green Pond Road in Anderson, SC. The property is owned by the Army Corps of Engineers Hartwell Project but is leased by Anderson County for development and use as a park and boat landing.

There will be fishing tournaments held adjacent to the work site that will not impede the Work but require coordination with County staff. There will be construction of the adjacent Weigh-In-Dock by another contractor during the Work, which will require site access coordination and cooperation by the Contractor.

The facility will remain open to the public during the Work but only from the restroom facility north to the 3-Lane boat landing. The contractor can restrict access to the south side of the facility but must allow the other contractor, County Sheriff, Parks and Facilities personnel safe access to the restricted work area. Heavy loads will be restricted to the existing construction entrance south of the main entrance. Construction access indicated near the restroom is only to be used when absolutely necessary.

All Work shall be completed by **June 11, 2021** in time for the 400-boat TBF High School World Finals being held June 27-July x, 2021.

##### **Project Scope:**

This project will provide an outdoor amphitheater facility, large event plaza, ADA access and pedestrian facilities, and an event trailer staging and drive-through roadway (**Addendum F**) adjacent to the weigh-in-dock and restroom facilities. Alternate Work may be awarded at the County's discretion to build out the entire project. Alternate A Work is an alternate bid item to the Base Bid's Redi-Rock Seating and Stairs. The remaining alternates build on the Base Bid Work.

A significant amount of Phase I (C1-11) Work was completed to accommodate the Weigh-In-Dock project. The plaza manhole and 18" RCP outfall pipe was installed. The riser section on site will bring the manhole to finished elevation. Approximately 6 ft. to 8 ft. of fill has been placed with compaction tests taken during placement, see **Addendum D**. An as-built survey pdf is provided as **Addendum E**. The area has a 4" stone base driveway, temporary seed and straw, and silt fence along most of the lakefront area.

**Base Bid Scope:** Work will provide the basic Redi-Rock amphitheater seating and stairs (**Addendum G**), sidewalk to the parking lot, and required ADA sidewalk access to the existing ADA parking area. It includes all remaining grading, including the new event pad grading and boulder relocations, but excluding grading for the restroom area bioswale removal and reconstruction of the existing construction entrance. Contractor shall use existing soil stockpile

material adjacent to the construction entrance and reestablish grade in that area. Roadway and plaza graded aggregate base course will be placed 3" below grade to accommodate future paving, but also provide smooth pavement transitions and functioning drainage. Supplement existing silt fencing and install remaining erosion/water quality items. All grassing items for the entire project are included in the base bid.

**Alternate A Scope:** Option of cast-in-place reinforced concrete seating and stairs, with 4" concrete sidewalk between seat rows on the lower five seating levels. See C2-09.

**Alternate B Scope:** Install 8" reinforced concrete paved event plaza.

**Alternate C Scope:** Completes project curbing, sidewalk, concrete and asphalt paving, and storm drainage Work except for construction entrance reconstruction.

**Alternate D Scope:** Demolish and re-grade construction entrance area, install asphalt pavement section.

**Alternate E Scope:** Following construction of the amphitheater area, stain and seal Redi-Rock elements using a qualified concrete staining company. County to select stain coloring, and a test application will be required before approval to proceed. Manufacturer has recommended a five-step process consisting of a water-based stain application, accent color blend application, and three coats of water-based concrete sealer mixed 50/50 with water.

**ALL WORK MUST BE COMPLETED BY FRIDAY, JUNE 11, 2021  
SUBJECT TO LIQUIDATED DAMAGES OF \$500/DAY**

**Utilities:** Duke Power owns underground power and lighting system at facility. Anderson County owns waterline, septic system and communications tower. Contractor is responsible for having all utilities located prior to beginning Work.

**(SEE ATTACHED SPECIFICATIONS/DRAWINGS)**

I have read and understand the foregoing specifications and attached addenda and agree to their terms.

Date: 2-24-21

ATTEST: Susan B. Bell

The Bell Company LLC  
(Name of Corporation)  
By: [Signature]  
Print Name: Mr. J. Bell  
Its: President



**ANDERSON  
COUNTY**  
SOUTH CAROLINA

## **AGENDA**

**Land-Use Ad-hoc Committee Meeting  
Thursday, February 25, 2020 at 6:00 pm  
Anderson Civic Center  
3027 Martin Luther King Jr Blvd.  
Anderson, South Carolina 29625**

**Tommy Dunn**  
Chairman  
Council District 5

**Brett Sanders**  
Vice Chairman  
Council District 4

**John B. Wright, Jr.**  
Council District 1

Council District 2

**Ray Graham**  
Council District 3

**Jimmy Davis**  
Council District 6

**M. Cindy Wilson**  
Council District 7

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**Lacey A. Croegaert**  
Clerk to Council

**Rusty Burns**  
County Administrator

1. Call to Order:
2. Invocation and Pledge:
3. Land Use Discussion
4. Citizens Comments:
5. Adjournment:

Chairman Tommy Dunn

Honorable Brett Sanders



**ANDERSON  
COUNTY**  
SOUTH CAROLINA

**AGENDA**  
**Planning and Public Works Committee Meeting**  
**Friday, February 26, 2020 at 12:15 pm**  
**Anderson Historic Courthouse**  
**2nd Floor Conference Room**  
**101 South Main Street, Anderson, South Carolina 29622**  
**M. Cindy Wilson, Presiding**

**Planning/Public Works Committee**

Consisting of three members of Council, functions as a review, oversight and advisory body of subdivision regulations, building and other regulatory codes, the zoning ordinance, transportation, rights of way, building and grounds, licenses and business regulations, community development, and housing authority programs, public works department, and other matters thereto.

**Tommy Dunn**  
Chairman  
Council District 5

**Brett Sanders**  
Vice Chairman  
Council District 4

**John B. Wright, Jr.**  
Council District 1

Council District 2

**Ray Graham**  
Council District 3

**Jimmy Davis**  
Council District 6

**M. Cindy Wilson**  
Council District 7

**Lacey A. Croegaert**  
Clerk to Council

**Rusty Burns**  
County Administrator

1. Call to Order: Chairman, M. Cindy Wilson
2. Invocation and Pledge: Honorable Brett Sanders
3. Consideration of Waste Connections request to increase annual tonnage at the Anderson Regional Landfill Mr. Greg Smith
4. Citizens Comments:
5. Adjournment:

Committee Members: M. Cindy Wilson, Chairman  
Honorable Brett Sanders  
Honorable Jimmy Davis



# MEMORANDUM

## ANDERSON COUNTY SOLID WASTE DEPARTMENT

**DATE:** February 24, 2021

**TO:** Rusty Burns, Administrator

**FROM:** Greg Smith, Solid Waste Director

**CC:** Anderson County Council

**SUBJECT:** ARL Tonnage Capacity Increase Request

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The Anderson Regional Landfill Community Committee met on February 18, 2021 to discuss a tonnage capacity increase, operations of the landfill, community needs, roads, and growth in the region. Anderson Regional Landfill is owned and operated by Waste Connections of the Carolinas.

On August 6, 2019, Anderson County Council approved a Second Amendment to the Purchase, Sale and Operating Agreement for the Anderson Regional Landfill to increase its limit of disposal of solid waste at the Landfill to 488,000 tons per year which was an increase of 50,000 tons per year due to growth in Anderson County and surrounding counties. DHEC had approved for ARL to increase by 150,000 tons in which Anderson County approved 50,000 tons of the 150,000 tons as it is in our Purchase, Sale and Operating Agreement.

ARL is respectfully requesting that Anderson County allow them to go up to 588,000 tons per year which is a 100,000 ton increase per year that is approved by DHEC. They are having to send some of their customers to other landfills due to growth in the upstate as well as Anderson County. COVID 19 has been a major part in the increase tonnages.

Anderson County is looking to have a 10,000 to 12,000 ton increase just with our convenience centers, municipalities, and private residential haulers for this year and a 6% to 8% increase for next year. We are estimating that we will dispose of 79,455 tons this year. Anderson County disposes of 21% of the waste that ARL takes in. Spartanburg brings in 52% and 27% comes from Greenville.

Anderson Regional Landfill has addressed any odor issues and any other issues that have

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SOUTH CAROLINA

**Brett Sanders**  
V. Chairman, District 4

**Gracie Floyd**  
Council District 2

**Jimmy Davis**  
Council District 6

**Lacey Croegaert**  
Clerk to Council

**Rusty Burns** | County Administrator  
rburns@andersoncountysc.org



# MEMORANDUM

ANDERSON COUNTY DEPARTMENT NAME | PAGE 2

arisen in a timely manner. They pick up on Big Creek Road from Rector Rd. to Highway 20.

They immediately address any trash haulers that may travel down unapproved travel routes to the landfill. They hired another trash hauling company for their transfer station in Spartanburg that has done a better job of covering their loads while transporting to the landfill.

They have donated to the Cheddar Fire Department, Anderson County Sheriff's Department, Belton Police Department, and others. They are willing to assist with Keep Anderson County Beautiful at any time. Donations include the following:

- March 2020 - \$15,000.00 to Belton Police Dept. to help fund new Active Shooter Program.
- June 2020 - Donated \$5,000.00 to the Palmetto Championship and Belton Tennis for their Summer Events.
- September 2020- Donated \$10,000.00 to Cheddar Fire Department to purchase new protective equipment for the department.
- December 2020 - Donated \$5,000.00 to Belton Police Department to help fund new technologies (Body Cameras, Computers) for their officers.
- December 2020 - Donated \$5,000.00 to the Anderson County Sheriff's Department for their K-9 program.
- Q1/Q2 2021 - Waste Connections will be paying for Fiber Optic Lines to be run to their facility which should help some residents in the area and our Anderson County Material Recovery Facility to access. This will be a \$50,000.00 investment for their facility.
- Waste Connections has donated to other area events such as top prize for local car show, turkey shoot in Belton, appreciation cookout for the Cheddar Fire Department and will be looking to help with other area events.

Waste Connections recognizes the value of how impactful they can be as a stakeholder in the community and state they will continue to promote, support, and assist their fellow community members. have strived to have a good working relationship with the community and Anderson County.

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Chairman, District 5

**Joh B. Wright, Jr**  
Council District 1

**Tom Allen**  
Council District 4

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Council District 7

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SOUTH CAROLINA

**Ray Graham**  
V. Chairman, District 3

**Gracie Floyd**  
Council District 2

**Ken Waters**  
Council District 6

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Clerk to Council

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burns@andersoncountysc.org

# ANDERSON COUNTY SOLID WASTE DISPOSAL COSTS

	2015-2016		2016-2017		2017-2018		2018-2019		2019-2020		2020-2021	
July	5695.11	\$168,119.65	5216.63	\$153,994.92	5680.73	\$167,695.15	6422.22	\$153,491.06	5852.71	\$139,879.77	6843.56	\$163,561.08
August	5438.02	\$160,530.35	5769.91	\$170,327.74	5911.93	\$174,520.17	6010.04	\$143,639.96	5377.14	\$128,513.65	6399.04	\$152,937.06
September	5183.32	\$153,011.61	4982.10	\$147,071.59	5424.65	\$160,135.67	5192.93	\$124,111.03	4999.51	\$119,488.29	6306.11	\$150,716.03
October	5285.07	\$156,015.27	5035.86	\$148,658.59	5595.08	\$165,166.76	5854.85	\$139,930.92	5328.04	\$127,340.16	6067.37	\$145,010.14
November	5286.57	\$156,059.55	5277.43	\$155,789.73	5596.91	\$165,220.78	5723.58	\$136,793.56	5160.21	\$123,329.02	5954.86	\$142,321.15
December	6224.68	\$183,752.55	5565.75	\$164,300.94	5345.89	\$157,810.67	5675.54	\$135,645.41	5861.84	\$140,097.98	6732.12	\$160,897.67
January	5141.24	\$151,769.40	5742.61	\$169,521.85	5725.31	\$169,011.15	6260.62	\$149,628.82	5713.33	\$136,548.59	5813.00	\$158,830.00
February	4975.96	\$146,890.34	4841.51	\$142,921.38	4985.99	\$147,186.42	4696.73	\$112,251.85	4774.07	\$114,100.27	6074.00	\$145,158.00
March	5812.70	\$171,590.90	5599.45	\$165,295.76	5702.70	\$168,343.70	5717.12	\$136,639.17	6038.00	\$144,308.20	7338.00	\$175,378.00
April	5271.76	\$155,622.36	5485.64	\$161,936.09	5794.18	\$171,044.19	5971.28	\$142,713.59	7128.01	\$170,359.44	7700.00	\$184,000.00
May	5375.86	\$158,695.39	6118.83	\$180,627.86	6058.61	\$144,800.78	5830.78	\$139,355.64	6855.55	\$163,847.65	7255.00	\$173,384.00
June	5587.00	\$164,928.24	5811.14	\$171,544.85	5836.97	\$139,503.58	5302.89	\$126,739.07	6571.62	\$157,061.72	6872.00	\$166,836.00
<b>TOTAL</b>	<b>65277.29</b>	<b>\$1,926,985.60</b>	<b>65,446.86</b>	<b>\$1,931,991.31</b>	<b>67,658.95</b>	<b>\$1,930,439.04</b>	<b>68,658.58</b>	<b>\$1,640,940.06</b>	<b>69,660.03</b>	<b>\$1,664,874.72</b>	<b>78455.06</b>	<b>\$1,898,978.00</b>

2x

Revised

2/4/2021

2/4/2021

July 2020- June 2021 - \$23.90 Ton

Signature: Sharon Nicometo Print Name: SHARON Nicometo Date: 2/26/21