



AGENDA
ANDERSON COUNTY COUNCIL
SPECIAL PRESENTATION MEETING
Tuesday, August 3, 2021 at 6:00 p.m.
Historic Courthouse
101 S. Main Street
Anderson, South Carolina
Chairman Tommy Dunn, Presiding

1. CALL TO ORDER

2. RESOLUTIONS/PROCLAMATION

- a. **R2021-036** A resolution to recognize and honor Pelzer Heritage Commission officers Dianne Lollis and Larry Coker; and other matters related thereto.
- b. **R2021-037** A resolution to honor and recognize Mr. Bob Holcombe for his service to the Special Populations Rainbow Gang; and other matters related thereto.

3. ADJOURNMENT

AGENDA
ANDERSON COUNTY COUNCIL
REGULAR MEETING
Tuesday, August 3rd at 6:30 p.m.
Historic Courthouse
101 S. Main Street
Anderson, South Carolina

Chairman Tommy Dunn, Presiding

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Hon. Jimmy Davis

3. APPROVAL OF MINUTES

July 20, 2021
Not Received

4. CITIZENS COMMENTS

Agenda Matters Only

5. REPORT FROM PUBLIC SAFETY COMMITTEE MEETING HELD FRIDAY, JULY 30, 2021

- a. Bid #21-062 Aluminum Boat
- b. EMS

Hon. Ray Graham (allotted 10 minutes)

6. REPORT FROM PLANNING & PUBLIC WORKS COMMITTEE MEETING HELD, JULY 30, 2021

- a. Conservation Design Development

Hon. M. Cindy Wilson (allotted 10 minutes)

Tommy Dunn
Chairman, District Five

John B. Wright, Jr.
District One

Ray Graham
District Three

M. Cindy Wilson
District Seven



Brett Sanders
V. Chairman, District Four

Glenn Davis
District Two

Jimmy Davis
District Six

Lacey Croegaert
Clerk to Council

Rusty Burns
County Administrator



7. ORDINANCE THIRD READING:

- a. **2021-040** An Ordinance to amend Chapter 2, Article V (Purchasing), Sections 2-631, 2-634, 2-638, 2-639, 2-640, 2-643, 2-649, and 2-654 of the Code of Ordinances, Anderson County, South Carolina; and other matters related thereto. (**PUBLIC HEARING—THREE (3) MINUTE TIME LIMIT**)
Mr. Robert Carroll (allotted 5 minutes)
- b. **FOR PUBLIC HEARING ONLY 2021-043** An Ordinance authorizing the execution and delivery of a fee in lieu of tax agreement by and between Anderson County, South Carolina and Anderson Land, LLC with respect to certain economic development property in the County, whereby such property will be subject to certain payments in lieu of taxes, including the provision of certain special source credits; and other matters related thereto. (**PUBLIC HEARING—THREE (3) MINUTE TIME LIMIT**)
Mr. Burriss Nelson (allotted 5 minutes)
- c. **2021-044** An Ordinance authorizing the execution and delivery of a fee in lieu of tax agreement by and between Anderson County, South Carolina and Decennial SC, LLC with respect to certain economic development property in the county, whereby such property will be subject to certain payments in lieu of taxes, including the provision of certain special source credits; and other matters related thereto. (**PUBLIC HEARING—THREE (3) MINUTE TIME LIMIT**)
Mr. Burriss Nelson (allotted 5 minutes)
- d. **2021-045** An Ordinance to amend an agreement for the development of a joint county industrial and business park (2010 park) of Anderson and Greenville counties so as to enlarge the park to add Fitesa Simpsonville, Inc. to the business park; and other matters related thereto. (**PUBLIC HEARING—THREE (3) MINUTE TIME LIMIT**)
Mr. Burriss Nelson (allotted 5 minutes)

8. ORDINANCE SECOND READING

- a. **2020-035** An Ordinance to amend section 38-302, 38-312, 38-331, 38-351, 38-353, 38-356, 38-358 and Article 111 (Subdivision), Chapter 38 of the Code of Ordinances, Anderson County, South Carolina so as to provide for Conservation Development Standards and other matters related thereto.
Hon. M. Cindy Wilson (allotted 5 minutes)
- b. **2021-046** An Ordinance authorizing the execution and delivery of a fee in lieu of tax agreement by and between Anderson County, South Carolina and [Project Polly] with respect to certain economic development property in the county, whereby such property will be subject to certain payments in lieu of taxes, including the provision of certain special source credits; and other matters related thereto.
Mr. Burriss Nelson (allotted 5 minutes)
- c. **2021-047** An ordinance to amend an agreement for the development of a joint county industrial and business park (2010 park) of Anderson and Greenville counties so as to enlarge the park; and other matters related thereto. (Project Stella).
Mr. Burriss Nelson (allotted 5 minutes)
- d. **2021-048** An Ordinance authorizing the sale of Anderson County owned capacity in the Town of Williamston Wastewater Treatment Plant and Anderson County sewer infrastructure to serve the Forest Hills subdivision; and other matters related thereto.
Mr. Rusty Burns (allotted 5 minutes)
- e. **2021-049** An Ordinance authorizing the execution and delivery of a special source credit agreement between Anderson County, South Carolina and Robert Bosch LLC; and other matters relating thereto.
Mr. Burriss Nelson (allotted 5 minutes)



- f. **2021-050** An Ordinance authorizing a fee-in-lieu-of-tax arrangement on behalf of Project New (the “Company”) pursuant to a Fee-in-Lieu-of-Tax Agreement between Anderson County, South Carolina (the “County”) and the company; authorizing a 5-year extension of the investment period for all investments over the minimum investment requirement; authorizing the granting of certain infrastructure credits to the company; authorizing the creation of a joint county industrial and business park with Greenville County; and other matters relating to the foregoing.

Mr. Burriss Nelson (allotted 5 minutes)

9. ORDINANCE FIRST READING

- a. **2021-039** 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 +/- 11.23 acres from I-2 (Industrial District) to S-1 (Services District) on a parcel of land on Welpine Rd, in the Denver-Sandy Springs Precinct shown in Deed Book 14951 page 58. The parcel is further identified as TMS #93-00-04-004.

Ms. Alesia Hunter (allotted 5 minutes)

- b. **2021-038** 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 +/- 136.83 acres from R-20 (Single-Family Residential) to IZD (Innovative Zoning District) on three parcels of land in the Mt. Tabor Precinct shown in Deed Book 11262, 11262, and 12920 page 00024, 00024, and 00087 respectively; and including the Statement of Intent for “Cornerstone” dated April 30, 2021. The parcels are further identified as TMS #043-00-01-006, 043-00-01-020 and 043-00-11-021.

Ms. Alesia Hunter (allotted 5 minutes)

- c. **2021-037** 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 +/- 2.193 acres from C-1N (Neighborhood Commercial) to R-20 (Single-Family Residential) on a parcel of land, identified as Tract 1-B Bowen Rd in the Hopewell Precinct shown in Deed Book S2763 page 00006. The parcel is further identified as part of TMS #145-07-01-010.

Ms. Alesia Hunter (allotted 5 minutes)

10. RESOLUTIONS: None

11. BID APPROVALS: None

12. ROAD ACCEPTANCE

Farms at Spearman Subdivision AKA Sam Cox Farms

13. APPOINTMENTS: None

14. REQUESTS BY COUNCIL

- a. The Lot Project—All Districts
- b. Starr-Iva 12U All-Stars—District Three
- c. Starr Fire Department—District Three

15. ADMINISTRATOR’S REPORT

- a. Sheriff’s Report

16. CITIZENS COMMENTS

Non-Agenda Matters

17. REMARKS FROM COUNCIL



18. 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.

RESOLUTION R2021-036

A RESOLUTION TO RECOGNIZE AND HONOR PELZER HERITAGE COMMISSION OFFICERS DIANNE LOLLIS AND LARRY COKER; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the Pelzer Heritage Commission was founded to undertake preservation and beautification projects of the Town of Pelzer; and,

WHEREAS, throughout its history, the PHC has been led by Dianne Lollis and Larry Coker, both of whom were born and raised in the old Pelzer mill village and, like their fellow PHC members, are committed to the revitalization of the community they love; and,

WHEREAS, under the leadership of Mrs. Lollis and Mr. Coker, the PHC has taken on projects great and small in an effort to offer Pelzer a renewed place of pride while also respecting the area's textile heritage; and,

WHEREAS, among many other things, the group's efforts to date have included clean-up of the old Pelzer Mill office building, restoration of the Lower Mill flag pole, preservation of the town's historic cemeteries, and the establishment of Overlook Park on the Saluda River; and,

WHEREAS, the PHC took its efforts to a new level in 2013 when the group purchased the Upper and Lower Mill sites, and with Anderson County initiated cleanup and reuse efforts at both sites; and,

WHEREAS, after several years of effort, and overcoming more than a few obstacles, the revitalization efforts at the Upper and Lower Mill sites are nearing conclusion; and,

WHEREAS, none of these efforts would have been possible without Mrs. Lollis and Mr. Coker's vision and determination; and,

WHEREAS, it is the desire of County Council to express its sincere gratitude for a job well done in the service of the community;

NOW, THEREFORE, BE IT RESOLVED that the Anderson County Council hereby extends its deepest appreciation to Pelzer Heritage Commission President Diane Lollis and Vice-President Larry Coker for all they have done to make a brighter future for the Town of Pelzer. Together you have overcome adversity, and you've done what others said was impossible. We commend you, we honor you, and we thank you.

RESOLVED in a meeting duly assembled this 3rd day of August, 2021.

FOR ANDERSON COUNTY

ATTEST

M. Cindy Wilson
County Council District Seven

Rusty Burns
County Administrator

Seth A. Riddley
Assistant Clerk to Council

RESOLUTION 2021-037

A RESOLUTION TO RECOGNIZE AND HONOR BOB HOLCOMBE FOR HIS SERVICE TO THE SPECIAL POPULATIONS RAINBOW GANG; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Robert M. Holcombe, known to all of us as Bob, is an Anderson County native who excelled in both his professional and community service endeavors; and,

WHEREAS, during Bob's 46-year career with JP Stevens and Safety Components International he rose to the highly regarded position of Laboratory Director and was named as a Fellow by the American Society for Testing and Materials; and,

WHEREAS, due to his professional reputation and the esteem in which he was held by his colleagues, Bob was often called upon by the FBI to testify as an expert witness in fiber analysis and identification, and also served as an Auditor for the American Association for Laboratory Accreditation; and,

WHEREAS, Bob's professional success is exceeded only by his record of community service, having volunteered his time as a Boy Scout leader, boys recreational league baseball coach, church youth leader, and Sunday School Teacher; and,

WHEREAS, Bob has been especially generous in sharing his talents with the Anderson County Special Population Recreation "Rainbow Gang" program and the Area 14 Special Olympics. He has served as a coach on the local, state and national levels, attended National Games twice as the South Carolina team's Bocce Coach, and is a recipient of the Spirit of Special Olympics Award by the state; and,

WHEREAS, Bob has always considered himself to be a member of the Rainbow Gang, not just as a volunteer. He has often said that the athletes, or "The Troops" as he likes to call them, have inspired him and changed his life for the better.

WHEREAS, it is the desire of County Council to express its sincere gratitude to one who has given of himself in so many ways;

NOW, THEREFORE, BE IT RESOLVED that the Anderson County Council hereby extends its deepest appreciation to Robert M. "Bob" Holcombe" for all he has done to make a better world for us all, and especially for all he has done to help "The Troops" in the Rainbow Gang. We commend you, we honor you, and we thank you.

RESOLVED in a meeting duly assembled this 3rd day of August, 2021.

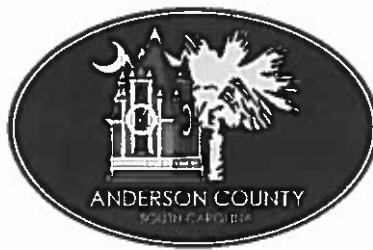
FOR ANDERSON COUNTY

ATTEST

Ray Graham
County Council District Three

Rusty Burns
County Administrator

Seth A. Riddley
Assistant Clerk to Council



AGENDA

ANDERSON COUNTY PUBLIC SAFETY COMMITTEE

MEETING

Friday July 30, 2021 8:00 a.m.

101 South Main Street, Anderson SC

Second Floor, Administrator's Conference Room

Chairman Ray Graham, Presiding

Tommy Dunn
Chairman
Council District 5

Brett Sanders
Vice Chairman
Council District 4

John B. Wright, Jr.
Council District 1

Glenn Davis
Council District 2

Ray Graham
Council District 3

Jimmy Davis
Council District 6

M. Cindy Wilson
Council District 7

Lacey Croegaert
Clerk to Council

Rusty Burns
County Administrator

1. Call to Order

Chairman Graham

2. Prayer and Pledge of Allegiance

Honorable John Wright, Jr.

3. Bid #21-062 Aluminum Boat

Chief Ross Brown

4. EMS Update

Mr. Rusty Burns

5. Citizens Comments

6. Adjourn

ADMINISTRATION DIVISION

Rusty Burns | County Administrator

O: 864-260-4031 | F: 864-260-4548 | rburns@andersoncountysc.org
Historic Courthouse | 101 South Main Street, Anderson SC 29624
PO Box 8002, Anderson, South Carolina 29622-8002 | www.andersoncountysc.org

Anderson County Purchasing Department Bid Tabulation

BID #21-062 ALUMINUM BOAT

	Vendor	addend. & bond	BID / ALT. BID
1	SILVER SHIPS		\$212,630.00
2	LYMAN MORSE		\$169,965.00
3	MUNSON BOATS		\$161,811.00
4	TTI-USA		NO RESPONSE
5	OPTIONLINE		NO RESPONSE
6	STRICKLAND		NO RESPONSE
7	DOSS MARINE		NO RESPONSE
8	LIFE TYME BOATS		NO RESPONSE
9	OQUAUKA BOATS		NO RESPONSE
10	NOVA		NO RESPONSE
11	PIONEER BOATS		NO RESPONSE
12	MCLEAN MARINE		NO RESPONSE
13	ALUMA MARINE		NO RESPONSE
14	METALCRAFT MARINE		NO RESPONSE

Vessel Performance Report 23-26 RESCUE



PERFORMANCE DATA						
RPM	KTS	MPH	GPH	MPG	RANGE	
1000	3.5	4.0	1.1	3.7	275	
1500	5.2	6.0	1.6	3.7	281	
2000	6.4	7.4	2.6	2.8	212	
2500	7.4	8.5	3.8	2.2	168	
3000	9.5	10.9	5.5	2.0	149	
3500	16.8	19.3	5.7	3.4	254	
4000	21.7	25.0	7.5	3.3	250	
4500	26.4	30.4	10.4	2.9	219	
5000	30.2	34.8	13.0	2.7	201	
5500	33.6	38.7	17.3	2.2	168	
6000	36.7	42.2	22.6	1.9	140	
6200	37.5	43.2	27.7	1.6	117	

Hull Length: 23 feet

Beam: 5.5 feet

Deadrise: 15 degrees

Fuel Capacity: 75 gallons

Weight Dry: 5 140 lbs.

Hull Draft: 13-3/4 inches

Engine: Single Yamaha F250XA 250 HP

Dive: 4 Roll Control Scuba Tank Holders

Propeller: Eberle 14-1/2 x 17

Cargo Capacity: 2 500 lbs.

MUNSON



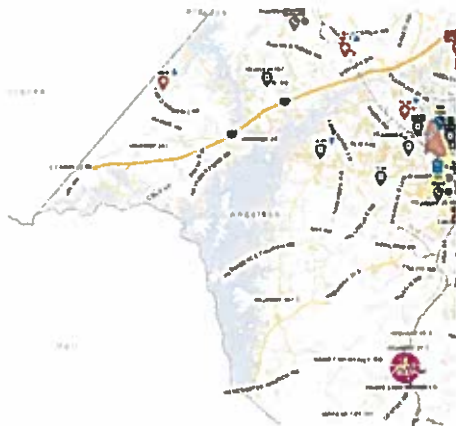
Phone: 360-707-2752 • jesse@munsonboats.com • www.munsonboats.com

Lake Hartwell Facts

- Largest lake in the Southeast United States
- 56,000 acres of water 26,000 acres of land
- 962 Miles of shoreline
- 185 Feet at Deepest Point
- 85 Recreation Areas
- 21 Swim Beaches
- 45 Public Boat Ramps
- Over 10,000 private docks
- 10 Million Annual Visitors (Reported as of 2018)

Anderson County Specific

- 2 Major Marinas with Fuel Stations on the Water (Anderson County)
- 1 Large Event Center (Green Pond Landing)
- 31,870 acres of Lake Hartwell in Anderson County (39.7% of Lake Hartwell)
- Anderson County has more acreage of Lake Hartwell than any other single county
- Anderson County also covers Broadway Lake and the Northern Portion of Lake Russell



Current Rescue/Dive Vessel

- Purchased in 2005 (16 Years Old)
- 27 Ft Long Carolina Skiff Flat Bottom Vessel
- Max Capacity 22 Persons or 2860Lbs
- Max Speed 35 Knots (Empty) 15 Knots when loaded with Dive Gear
- Only Dive Platform Boat in Anderson County for all three lakes
- Currently utilized for Rescue Dive Response / EMS Response / HazMat / Law Enforcement Response and Evidence Recovery Dive



Marine 2 Loading During Dive Operations

- 3 Divers (Primary, back up and safety)
- Each diver includes their dive gear
- Back up set of dive gear and safety cylinder
- 1 Line Tender
- 1 Medic equipped with medic bag, ALS monitor, and oxygen bag
- 1 Boat Operator
- During lift bag operations an additional 2 personnel at minimum plus lift bags and equipment

****During a single operation upwards of 9-10 personnel plus equipment operate from the platform of Marine 2. This does not include the potential patient or patients that have to be loaded on board as well****

Lake Hartwell Drownings (Army Corps of Engineers)

Year	Total Drownings	Recreational Drownings
2018	8	5
2019	8	4
2020	4	1
2021	7	4

Lake Hartwell Boating Accidents (SCDNR)

Year	Boating Accidents	Injured	Fatalities
2018	5	4	2
2019	7	4	1
2020	4	3	0
2021	4	8	0



AGENDA

Planning and Public Works Committee Meeting

Friday, July 30, 2021 at 9:00am

Anderson County Historic Courthouse- Administrator's Conference Room 101 S. Main
Street Anderson, South Carolina 29624

M. Cindy Wilson, Presiding

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.

1. Call to Order: M. Cindy Wilson, Chair
2. Invocation and Pledge:
3. Discussion of Conservation Design Development:
4. Questions:
5. Adjournment:

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

EXHIBIT A

CHAPTER 38, ARTICLE III – SUBDIVISIONS

ITEMS IN (1) **GREEN** ARE NEW VERBIAGE FOR CONSERVATION SUBDIVISIONS

(2) **BLUE** ARE ADDITIONAL CHANGES NEEDED

(3) **RED** ARE CHANGES MADE BY ORDINANCE 21-009

(4) **BLACK** ARE EXISTING CODE LANGUAGE

ARTICLE III. - SUBDIVISIONS

ITEMS IN GREEN ARE NEW VERBIAGE FOR CONSIDERATION FOR CONSERVATION SUBDIVISIONS, BLUE IS OTHER CHANGES NEEDED, BLACK IS EXISTING LAW

Sec. 38-302. - Definitions.

The following definitions shall apply to the subdivision regulations:

Natural Areas: areas of undisturbed vegetation or areas replanted with vegetation after construction.

Open space: Undeveloped land suitable for low impact resource-based outdoor recreation and/or conservation purposes. This definition can include land with environmental value such as preserve/preservation lands, and can also include land required or desired to provide for aesthetic and scenic value. Open space may include utility rights of way if utility construction is below ground, but may not include utilities constructed above ground nor stormwater management areas unless these areas are open to recreational uses by the occupants of the development and/or enhance the aesthetic value of bordering uses.

Scenic View: an outstanding or unique view of distant landscapes of scenic grandeur, outstanding views of large bodies of water, or panoramic view of the skyline.

Trails: a travel route established either through construction or use that is passable by foot traffic or bicycles.

Historic Site or Structure – Historic site or Historic Structure is an official location designated by a federal or state government as a historic site where pieces of archeological, architectural, political, military, cultural, or social history have been preserved due to their cultural heritage value. For the purposes of this ordinance, a site is considered a Historic Site if it is properly listed on the National Register of Historic Places by the U.S. Department of Interior.

Sec. 38-312. - Preliminary plat.

The preliminary plat shall contain the following information:

(17) For Conservation Subdivisions: Density Table showing the total land area (acres), number of lots total, number of lots per acre, open space (acres and percent of total).

(18) For Conservation Subdivisions: Clear delineation of open space on plat.

DIVISION 4. - ADMINISTRATIVE PROCEDURE; FINAL PLAT

Sec. 38-331. - Final approval required.

- (a) The final subdivision plat shall be prepared and submitted to the planning commission by the subdivider within 12 months after the approval of the preliminary plat. If the final plat is not submitted to the planning commission within that time frame, preliminary approval shall be null and void unless an extension of time is applied for and granted by the planning commission. Final plat approval may be given for any phase of a subdivision where phased development is clearly indicated on the preliminary plat; provided, however, that once the first phase of any final plat is recorded and 80 percent of the lots in that phase are sold, the subdivider has two years to receive approval and record the final plat for the next phase, using the subdivision regulations as they were approved at the time the preliminary plat for the first phase was recorded. This same time frame shall hold consistent through the development process, but only for those phases which were shown on the preliminary plat.

(1) Conservation subdivisions may be done in phases, however all phases must be a part of a conservation design master plan that must be approved at the beginning of the development process.

- (b) Final plats shall be submitted for approval by the planning commission in the following manner:

- (1) ~~Seventeen~~ **Five** copies of the final plat shall be turned in to the planning department at least 14 working days, but not greater than 20 days, prior to any commission meeting at which the subdivider would like the plat to be ~~discussed considered~~. ~~The subdivider shall also provide the county with a digital DXF file of the subdivision on approved media. If the subdivider is unable to provide the digital file, an administrative fee of \$5.00 per lot shall be charged, not to exceed \$500.00.~~
- (2) Additional copies of the final plat shall be provided to the planning department upon request.
- (3) Any deed restrictions or restrictive covenants then applying to all or a part of the subdivision shall be submitted along with the final plat at the time of submission to the planning department.

(c) Final Plats for Conservations Subdivisions must also include:

(1) Open space table, using the same format as on the preliminary plan, and shall include the proportional acreage being recorded.

(2) Notations indicating the delineated open space, including metes and bounds, are to be shown on the Final Plat.

(3) Open Space Easements:

(a) Prior to the recording of a subdivision final plat, an easement shall be placed on all lands and private waters used to satisfy the open space requirements of the Conservation Subdivision.

(b) The easement shall be solely for the purpose of ensuring the land remains undeveloped and shall not, in any way, imply the right of public access or any other right or duty not expressly set forth by the terms of the easement.

(c) The easement shall run with the land, provide for protection in perpetuity, and be granted to an approved owner and recorded with the Anderson County Register of Deeds. The owner shall include a properly organized property-owners association or other third party approved according to the ordinances of Anderson County.

(d) The easement shall include a complete metes and bounds of the property being designated as open space.

(4) Notes to be included on the Final Plat:

(a) This development has been approved by the Planning Commission as a Conservation Subdivision and has provided certain acreage of open space.

(b) Open Space Easement. The removal of trees and natural vegetation is permitted in the development phases for the purpose of utility crossing easements, establishment of site-line requirements of the SC Department of Transportation or the Administrator, removal of invasive species according to a plan approved by the Administrator, or passive recreational uses and

drainage ways with the proper notations on the final plat. Neither the developer, property owners, or other subsequent contractors or builders shall be granted permission to remove or destroy any trees or natural vegetation from the open space areas except by the owner of the easement or the Administrator. If some part of the open space was designated to meet stormwater management requirements, permission must be obtained from the Anderson County Stormwater Division for any alteration of the designated open space. Normal maintenance and the removal of dead or fallen trees are permitted and recommended.

(5) Subdivision Covenants: the covenants for the subdivision shall include provisions for the protection of trees and other natural amenities within the property designated for open space. A copy of the covenants is to be provided prior to the recording of a final plat.

DIVISION 5. - DESIGN STANDARDS

Sec. 38-351. - Design standards.

The size, shape, and orientation of the lots shall be appropriate for the location of the proposed subdivision and for the type of development ~~contemplated~~ proposed.

Conservation subdivisions allow for the preservation of open space in exchange for more compact development. The purpose of the Conservation Subdivision is to preserve agricultural and forestry lands, natural and cultural features, provide open areas for rest and recreation, and encourage the development of more attractive neighborhoods with economical site design that conserve sensitive areas. Specific objectives are as follows:

- (1) To preserve open land, including those areas containing unique and sensitive features such as natural areas and wildlife habitats, streams, wetlands, and floodplains.
- (2) To preserve scenic views and elements of the county's rural character and to minimize perceived density by minimizing views of new development from existing roads.
- (3) To minimize site disturbance and erosion through retention of existing vegetation.
- (4) To provide for the active and passive recreational needs of the residents of the proposed subdivision.
- (5) To provide greater efficiency in the siting of services and infrastructure by reducing road length, utility runs, and the amount of paving for development
- (6) To encourage the maintenance and enhancement of habitat for various forms of wildlife and to create new woodlands through natural succession and reforestation where appropriate.
- (7) To preserve and maintain historic sites and structures that serve as significant visible reminders of the county's social, archeological, and architectural history.
- (8) To create compact neighborhoods accessible to open space amenities and with a strong identity.

Conservation subdivisions must be 5 acres or larger and land area for the proposed conservation subdivision must be preserved as open space according to the table below (351). Examples of areas to be considered for open space protection are scenic vistas, natural water courses, woodlands, waterfalls, coves, geologic features, wetlands, floodplains, lakes, creeks. Buffers, Septic drain fields as part of a community wastewater collection and treatment system, and other underground utilities, may be permitted within the required open space.

Conservation subdivisions must have a minimum of fifty (50) foot buffer provided for the perimeter of the development. Within the fifty (50) foot buffer, existing vegetation shall not be clear cut and existing significant trees shall be preserved unless a plan is submitted to and approved by the Administrator that addresses site-specific conditions like the presence of invasive species, to remove dead or dying plants and trees, to improve screening, or other factors that may make

removal of existing vegetation beneficial to the subdivision. The 50 foot buffer provided along the existing road frontage adjoining the subdivision shall be designated as open space or common area and can include; walkways, paths, trails and other elements associated with passive recreation or the provision for continuous pedestrian and bicycle connections between adjoining properties. However, if a buffer of at least 25 feet already exists between the proposed subdivision and an adjoining subdivision, a 25 foot buffer is required where the buffer on the adjoining property already exists.

For Conservation subdivisions the ownership of open space shall be held by a Homeowners Association, or cooperative associations or organizations, a non-profit or quasi-public organization committed to the protection and conservation of open space, subject to their acceptance, or may be deeded to Public Jurisdiction or Agency, subject to their acceptance.

Table 351. Required Open Space

Average Lot Size	Open Space Required
2 Acres or Greater	None
1 Acre to 1.99 Acres	At least 10%
0.5 Acre to .99 Acre	At least 15%
Under 0.5 Acre	At least 25%

The Open Space required in the above table shall be the percentage of land area of the total acreage to be subdivided, which shall be set aside as protected open space for natural habitat preservation, passive recreation, and/or conservation for agriculture.

Sec. 38-353. - Access.

- (a) All lots developed in the county from the date of the adoption of this article must be situated on or have direct access by right-of-way or easement to an approved county, state maintained road, or private road built to county standards. Direct access to any new lot must be in the form of an individual right of way or easement for each lot, not less than 20 feet in width, to a county road or private road built to county standards. Direct access to a state road must be in the form of an individual right of way or easement for each lot, not less than 20 feet in width. All accesses onto state roads shall be approved in writing by the SCDOT prior to plat approval by the subdivision administrator.
- (b) **Conservation subdivisions shall have a minimum of one primary access point from an internal subdivision road to all open spaces. Additional secondary access points are encouraged. The primary access points shall not be less than twenty (20) feet in width. Additional secondary access points shall not be less than six (6) feet in width. Primary and secondary access points to open space shall be shown as part of the open space and shall not be part of an individual lot nor shall it be an easement.**

Sec. 38-356. - Waterways.

In any subdivision, natural waterways and riparian buffers shall remain natural and shall be kept clear of obstruction. **For conservation subdivisions, State riparian laws shall apply however a minimum of fifty (50) foot riparian buffer measured from the top of bank shall be provided on all waters of the state.**

Sec. 38-358. - Intensity standards.

- (a) One subdivision entrance is required for every 100 lots of a proposed subdivision.
- (b) **For conservation subdivisions, at least 50% of the lots shall directly front open spaces or face open spaces from across a subdivision street unless a variance is granted by the Planning Commission.**

DIVISION 6. - DESIGN STANDARDS; LOT DIMENSIONS

Sec. 38-371. - Lot dimensions; setbacks. (Red is Ord. 21-009)

- (a) The following minimum dimensions apply for lots with access to public water and sewer:
 - (1) Minimum area of ~~10,000~~ ~~8,000~~ sq. ft. for a single lot, when not in a zoned area of Anderson County. In zoned areas, the applicable minimum area requirements of the zoning ordinance shall apply. **Conservation subdivisions minimum lot area of 5,000 sq. ft. for a single lot, when not in a zoned area of Anderson County.**
 - (2) For twin home lots, the minimum combined total area of both lots must be at least ~~10,000~~ ~~8,000~~ sq. ft. and each lot must have a minimum area of ~~5,000~~ ~~3,850~~ sq. ft. when not in a zoned area of the county. In zoned areas, the applicable minimum area requirements of the zoning ordinance shall apply. **Conservation subdivisions minimum lot area of 5,000 sq. ft. for twin home lots, each twin home lot must have minimum area of 2,500 sq. ft. when not in a zoned area of Anderson County.**
 - (3) Minimum width of 60 feet between side lot lines measured at the front setback line. Minimum width for corner lots shall be measured from the side road setback line, rather than the side lot line to accommodate the need for additional width on corner lots. **Conservation subdivisions minimum lot width of 40 feet at the front setback line and minimum lot road frontage at the road right of way of 20 feet. For a twin-home lot, the minimum lot width is 20 feet for each dwelling unit of the twin home.**
 - (4) Minimum depth as required to meet minimum area requirements as specified in subsection (a)(1) and (3) of this section.
 - (5) Minimum rear setback of ~~15~~ ~~ten~~ feet from rear property line for a single family residence or a twin home. **Conservation subdivisions minimum rear setback of 5 feet.**
 - (6) Minimum side setback of ~~15~~ ~~eight~~ feet from the lot line shall be maintained on each side of a twin home and on both sides of a single family dwelling. Side setbacks on corner lots shall be equal to half the distance required for the front setback. **Conservation subdivisions minimum side setback of 5 feet and drainage easements of 5 feet at side property lines (drainage easements can be placed within the minimum side setback).**
 - (7) **For Conservation Subdivisions building setback shall be a minimum of 30 feet for all lots abutting the perimeter buffer.**

	Median Listing Price, June 2021	Vs. May 2021	Vs. June 2020
Anderson	\$263,782	5.6%	4.1%
Greenville	\$345,400	2.4%	15.0%
Spartanburg	\$272,043	6.0%	9.2%

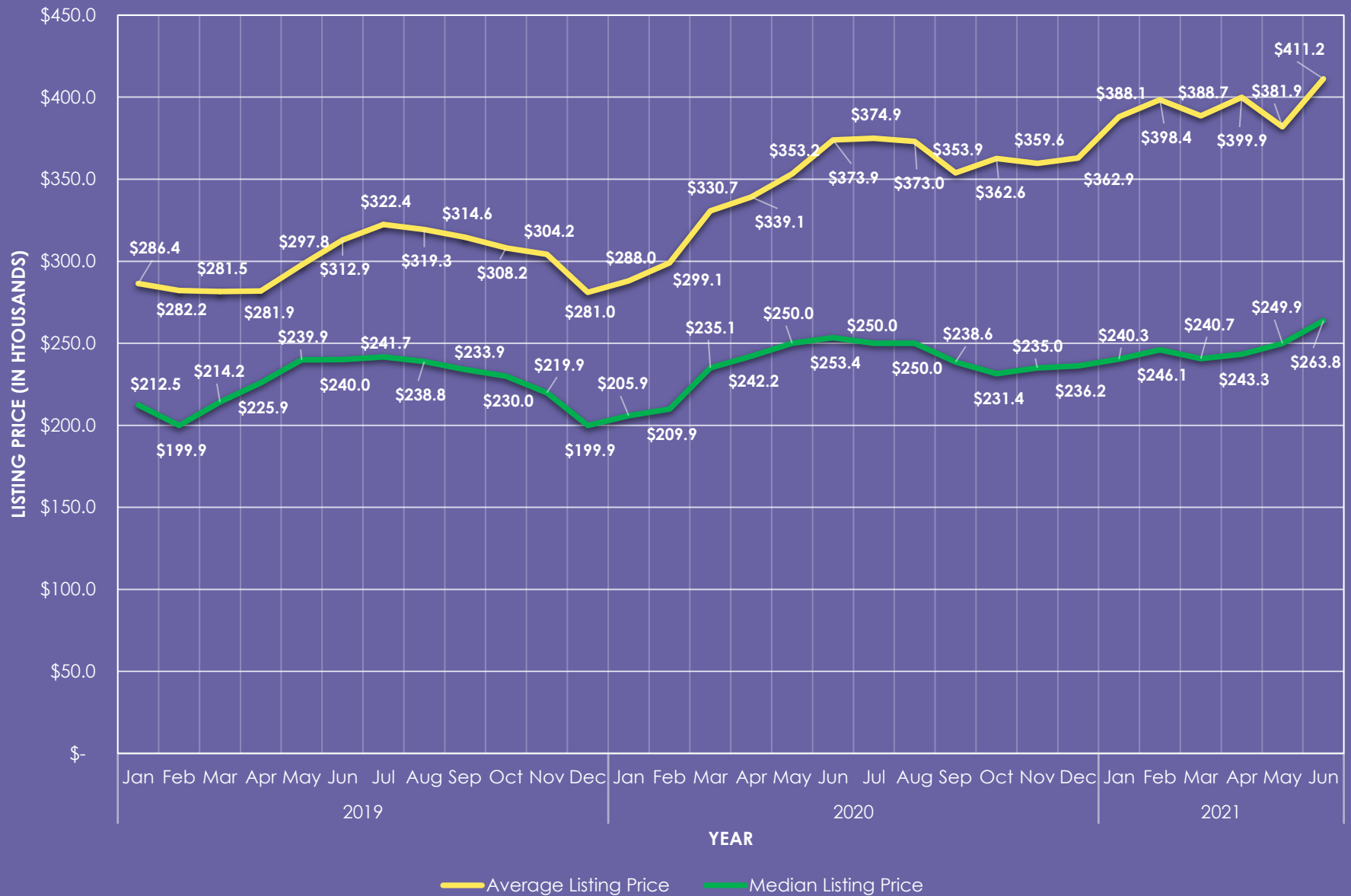
	Average Listing Price, June 2021	Vs. May 2021	Vs. June 2020
Anderson	\$411,196	7.7%	10.0%
Greenville	\$517,547	3.0%	20.0%
Spartanburg	\$377,283	0.3%	9.1%

	Median Days on Market, June 2021	Vs. May 2021	Vs. June 2020
Anderson	39.5	-10.2%	-54.6%
Greenville	42.5	-5.6%	-38.0%
Spartanburg	41.0	-4.7%	-41.0%

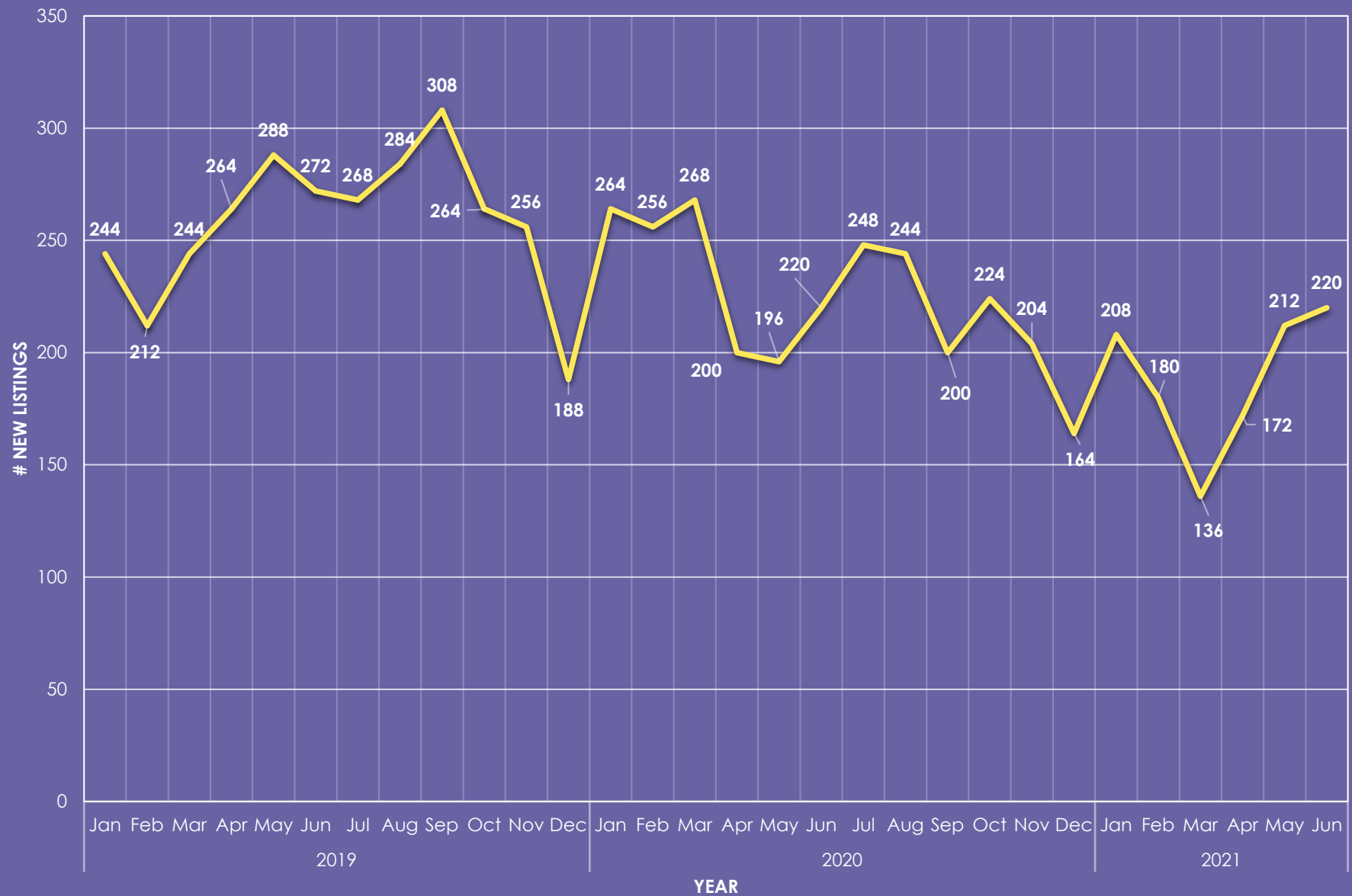
	Total Listing Count, June 2021	Active Listing Count, June 2021	Pending Listing Count, June 2021	Pending-to-Listing Ratio
Anderson	948	245	703	2.87
Greenville	2,634	713	1921	2.69
Spartanburg	2,113	508	1605	3.16

Anderson, SC FY 2021 HUD Metro Median and Fair Market Rental (FMR) Thresholds		
Unit Type	Median Area Rent	HUD FMR
Studio/Efficiency	\$657	\$623
1-Bedroom	\$718	\$680
2-Bedroom	\$891	\$844
3-Bedroom	\$1,152	\$1,092
4-Bedroom	\$1,501	\$1,422

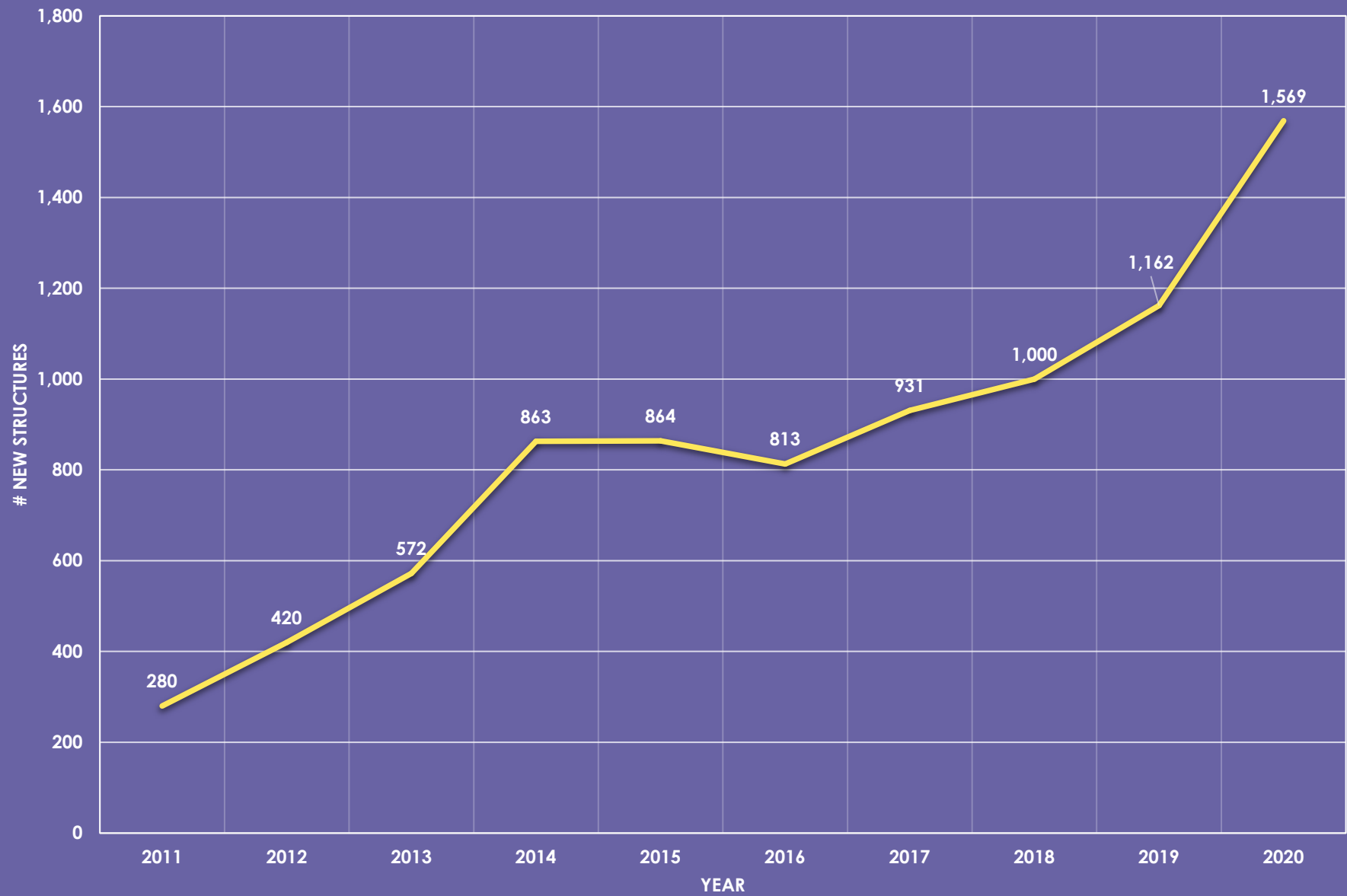
Average and Median Residential Listing Price by Month: January 2019 - June 2021



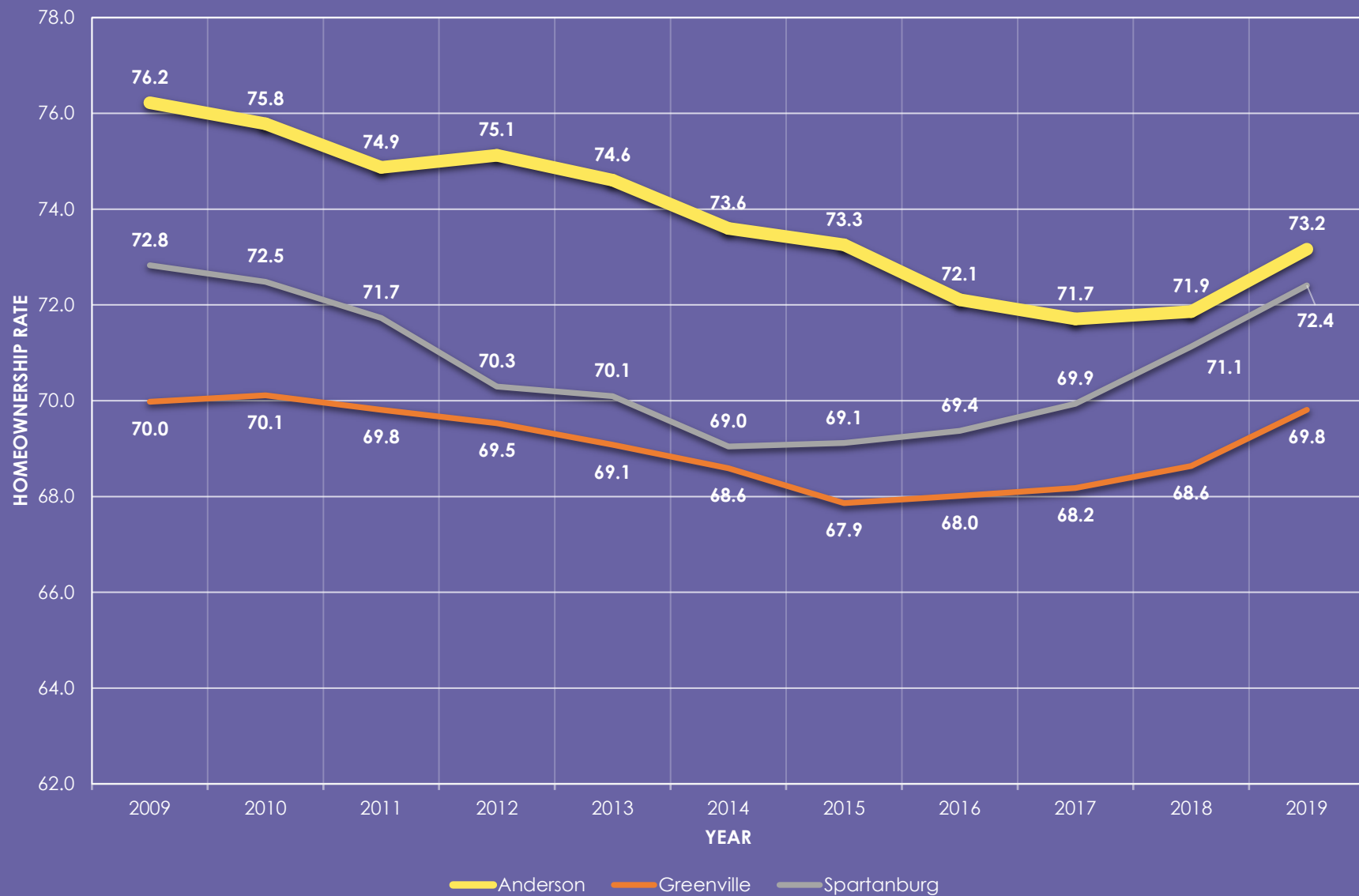
New Residential Listings by Month: January 2019 - June 2021



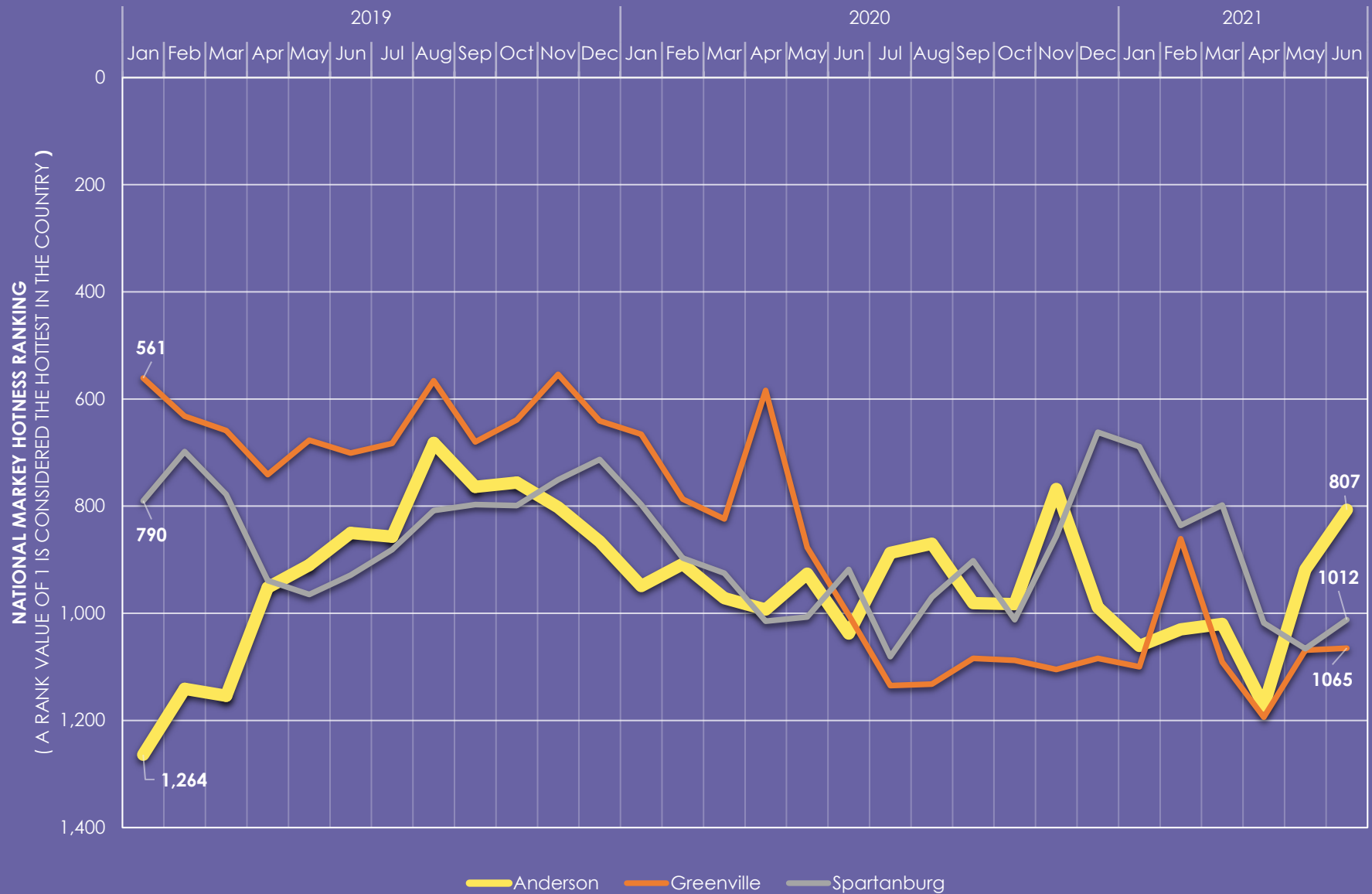
New Private Housing Structures by Year:
2011-2020



Homeownership Rates; Anderson, Greenville & Spartanburg: 2009 - 2019



Housing Market Hotness Rank by Month; Anderson, Greenville & Spartanburg: January 2019 - June 2021



ORDINANCE NO. 2021-040

AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE V (PURCHASING), SECTIONS 2-631, 2-634, 2-638, 2-639, 2-640, 2-643, 2-649, AND 2-654 OF THE CODE OF ORDINANCES, ANDERSON COUNTY, SOUTH CAROLINA; AND OTHER MATTERS RELATED HERETO.

WHEREAS, the Procurement Ad-Hoc Committee of the Anderson County Council was appointed to review and recommend revisions to Section 2, Article V (Purchasing) of the Code of Ordinances, Anderson County, South Carolina;

WHEREAS, the Procurement Ad-Hoc Committee has met on multiple occasions and has recommended revisions to Section 2, Article V (Purchasing) of the Code of Ordinances, Anderson County, South Carolina; and

WHEREAS, Anderson County Council desires to amend certain provisions of Section 2, Article V (Purchasing) of the Code of Ordinances, Anderson County, South Carolina.

NOW THEREFORE, be it ordained by the County Council of Anderson County, South Carolina in meting duly assembled that:

1. Sections 2-631, 2-634, 2-638, 2-639, 2-640, 2-643, 2-649 and 2-654 of the Code of Ordinances, Anderson County, South Carolina, are hereby amended to read as shown in Exhibit A (final version) and B (a compare version with the current Code), attached hereto and made a part hereof.
2. The remaining terms and provisions of the Code of Ordinances, Anderson, South Carolina, not revised or affected hereby remain in full force and effect.
3. 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.

4. Should any part or portion 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.

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

ENACTED in meeting duly assembled this ____ day of _____ 2021.

ATTEST:

FOR ANDERSON COUNTY:

Rusty Burns
Anderson County Administrator

Tommy Dunn
Chairman

Seth A. Riddley
Asst. Clerk to Council

APPROVED AS TO FORM:

Leon C. Harmon
County Attorney

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

ARTICLE V. - PURCHASING

FOOTNOTE(S):

--- (19) ---

Cross reference— Purchasing director, § 2-266 et seq.

State Law reference— County required to develop and adopt procurement laws, S.C. Code 1976, § 11-35-50.

DIVISION 1. - GENERAL

Sec. 2-601. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency and using agency means and includes any department, office, board, commission or other organizational unit for which the council has line-item budgetary authority and whose affairs or funds are under the control of the council.

Bidders list means a current file of sources of supply of articles for each category of commodities repetitively purchased for county use.

Contractual services means and includes any telephone, gas, water, electrical light and power services; towel, window washing and cleaning service; the rental of equipment and machinery; and all other types of agreements under which the contractor provides services which are required by the county government but not furnished by its own employees; provided, however, that contractual services shall not include legal advertising and purchases of space for legal advertising which shall not be subject to the provisions of this article. Such contracts may be in the form of a "contract" under which certain services will be provided for a specified period of time at an agreed-upon cost.

Inventory means the annual capital asset inventory required by section 2-612, annual capital asset inventory, of this article.

Irresponsible bidder means and includes any bidder or prospective bidder who fails to furnish, upon written request, proof of his responsibility and who has, as a vendor or contractor with the county, repeatedly made slow or unsatisfactory deliveries; or who has violated, or attempted to violate, the provisions of this article.

Personal services means and includes the services of janitorial, office machine repair, elevator repair or other individuals possessing technical type repair or service skills.

Responsible bidder means and includes any bidder who submits a responsive bid; who has furnished, when requested, information and data to prove that his financial resources, production of service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, materials, equipment or contractual services on which he bids; and who has not violated, or attempted to violate, any provisions of this article.

Responsive bid means and includes any offer submitted by a responsible bidder in ink or typewritten on the prescribed form to furnish supplies, materials, equipment or contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation for bids.

Supplies, materials and equipment means and includes any articles or things which shall be furnished to or used by any agency, including any printing, binding or publication of stationery, forms, laws, journals and reports, but excluding services or materials furnished "in kind" in lieu of cash to indigents.

(Ord. No. 394, Div. 1, § 1, 10-5-93; Ord. No. 2004-055, § 2A, 1-18-05; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Cross reference— Definitions generally, § 1-2.

Sec. 2-602. - Placement and operation of vending machines, food services, pay telephone and other concessions on county property.

- (a) Generally. All vending machines, food service operations, or other concessions to be placed and operated in any building or on any property owned or occupied by any department or agency of the county shall be secured through a process of competitive bidding, if it is to the advantage of the county to do so.
- (b) Installation commission basis. Unless specifically exempted by the County Council, no vending machine, pay telephone or other concession device shall be purchased by the county. All concessions shall be placed and operated on an installation/commission basis.
- (c) Disposition of commissions. All commissions earned from any concession on county property shall be deposited with the county treasurer through the finance department, to be credited to the general fund except as otherwise approved by the County Council.
- (d) Applicability. This section shall apply to all property owned or leased by the county, including, but not limited to, the administration buildings, courthouses, law enforcement center, public works center, environmental solid waste disposal sites or any other property occupied by any county department or agency.
- (e) Exemptions. This section shall not apply to any concession granted to a blind person or to the state commission for the blind pursuant to the provisions of S.C. Code 1976, §§ 1-1-520 and 43-25-70. The County Administrator may grant manual concessions to any handicapped person in preference to any other person submitting a bid under

the purchasing ordinance. This section shall not apply to concessions operated on property leased by the county to any other person or agency and concessions at the civic center and detention center shall not be subject to these policies, but be credited to the center in which commissions are generated for public purposes as stated by the directors.

(Ord. No. 394, Div. 2, § 2, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09); Ord. No. 2017-035, 10-03-2017)

Sec. 2-603. - Centralized purchasing required.

It shall be the policy of the County Council that goods and services required by county agencies shall be procured by the use of centralized purchasing procedures unless specifically exempted by County Council.

(Ord. No. 394, Div. 3, § 1, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Sec. 2-604. - Petty cash expenditures revolving fund.

There is hereby established the petty cash expenditures revolving fund to be administered by the finance director or his designee. Any purchase estimated to cost under \$50.00 may, with the approval of the finance director or his designee, be made from this fund.

The finance director or his designee shall formulate policies for the disbursement of and accounting for any monies in this fund.

(Ord. No. 394, Div. 3, § 15, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09),

Sec. 2-605. - Purchase order required.

Any purchase made pursuant to this article with county funds shall be recorded on a purchase order bearing the quantity and description of each item to be purchased.

(Ord. No. 394, Div. 3, § 16, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Sec. 2-606. - Sales of county property.

Any items of personal property belonging to the county which are declared by the County Administrator to be obsolete or surplus may be sold to the highest responsible bidder. The purchasing director shall ensure that the procedures described in this section are followed, according to the estimated dollar salvage value of the goods to be sold; provided, however, that the administrator or designee may order such goods to be sold at public auction pursuant to proper public notice in lieu of sealed or written bids. In the event it is determined by the purchasing director to be in the economic interest of the county, surplus or used equipment and properties may be used for trade-in on purchases of like-kind new equipment and properties with approval of the administrator. The

purchasing director shall demonstrate these advantages to the administrator and obtain his consent to proceeding with the trade-in and purchase. Each separately identifiable capital asset of the county, whether attached to or added on to some other county asset or not, as reflected on each county department's annual capital asset inventory, shall be treated as a separate item of personal property for purposes of this section. Notwithstanding the foregoing and upon request by a local governmental entity or a not for profit organization, obsolete or surplus property may be transferred to the requesting entity provided the purchasing director decides any property to be transferred is of such little value that the economic interest of the county will not be adversely affected; any such transfer must be approved [by] the County Administrator or his/her designee. County Council shall be notified in advance and approve publicly all dispositions of county property made under this section.

(Ord. No. 394, Div. 3, § 17, 10-5-93; Ord. No. 96-032, § I, 1-21-97; Ord. No. 2004-055, § 2B, 1-18-05; Ord. No. 2009-006, § 1(Exh. A), 9-1-09; Ord. No. 2011-002, § 1, 2-15-2011; Ord. No. 2012-020, § 1, 6-5-2012); (Ord. No. 2015-028, 10-06-2015), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-607. - Purchasing files.

- (a) Generally. The purchasing director shall develop and maintain a list of vendors who offer supplies, materials, equipment or contractual services normally required by county agencies. The purchasing director shall record on the bidders list any significant history of trade with a vendor, whether favorable or unfavorable, for the purpose of determining whether a given vendor is a responsible bidder. The status of a given vendor may be reviewed from time to time by the purchasing director.
- (b) Catalog file. The purchasing director shall develop and update from time to time a file of catalogues for supplies, materials and equipment normally required by county agencies.

(Ord. No. 394, Div. 3, § 18, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-608. - Central supplies and services.

- (a) **Generally.** The purchasing director or other person designated by the administrator may maintain centralized stocks of such items which are normally used by county agencies. Items stocked will be at the discretion of the purchasing director. Purchases of stocked items must be made in accordance with procedures set forth in this Article V with the approval of the administrator and notification to County Council.
- (b) Inventory. The purchasing director or other persons designated shall inventory all such items no less than annually, whether by means of physical counts or perpetual records, certified by periodic physical counts. Copies of all records contemplated under this subsection shall be made available to County Council and the administrator upon request.

- (c) Accounting. The purchasing director or designee shall maintain central supply and service accounts for each class of such items and related services. Purchases of items of stock shall be charged to such accounts.

When such items or related services are provided to county agencies, the purchasing director or his designee shall charge the using department an amount representing the cost of such items or services, and shall credit an equivalent amount to the appropriate central supply and service account.

- (d) Requisitions. Any county agency requiring any goods or services, whether or not stock is available from central supplies and services, shall request such by submitting a requisition to the purchasing department. Such requisition shall be in that form required by the purchasing department.

(Ord. No. 394, Div. 3, § 20, 10-5-93; Ord. No. 96-032, § II, 1-21-97; Ord. No. 2009-006, § 1(Exh. A), 9-1-09), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-609. - Personal interests.

- (a) Conflicts of interest. Any purchase or contract within the purview of this article in which the purchasing director or any officer or employee of the county is financially interested, directly or indirectly, or which is, in any other manner, in conflict with state or local ethics laws, as they may be amended from time to time, shall be void if the other party knew or should have known of the interest or conflict; provided, however, that, before the execution of a purchase or contract, the County Administrator shall have the authority to waive compliance with this section when he finds such interest to be so remote or indirect as to be inconsequential and not in violation of law. No employee or elected official of the county may bid on a county contract if that individual is authorized to exercise decision making authority or responsibility with regard to that contract.

- (b) Gratuities.

- (1) Acceptance prohibited. The acceptance of any gratuity in the form of cash, merchandise or any other thing of value by an employee of the county from any person to whom any purchase or contract is or might be awarded shall be deemed a violation of this article and shall be cause for removal or other disciplinary action. State and local ethics laws govern fully in this regard.
- (2) Other prohibited. The offer of any gratuity by any actual or prospective vendor or contractor shall be cause for canceling any contract involved and for declaring such vendor or contractor an irresponsible bidder.

(Ord. No. 394, Div. 3, § 21, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-610. - Contracts to be used.

The county shall utilize the contract approved by the County Attorney.

(Ord. No. 394, Div. 4, § 4, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Sec. 2-611. - Capital expenditures.

- (a) It is hereby enacted that all department heads and agencies, wholly funded by the county, will hereby purchase all capital expenditure items on or before May 15 preceding the end of the fiscal year on June 30 of each and every year.
- (b) It is hereby directed that all departments will place all purchases for any capital expenditure items on or before May 15 of each year and will so direct the purchasing offices of the county of any items to be purchased.
- (c) It is hereby directed that no department heads or agencies of the county, wholly funded by the county, will be allowed to purchase capital expenditure items as of May 15 of each year until the end of the fiscal year, ending June 30 of that year.
- (d) This section does not preclude payment of operational expenses, such as salary pension insurance and all necessary operational bills for the county, but is solely designated in order that all receipts for all capital expenditure items will be in the purchasing office or the administrator's office before the end of the fiscal period ending June 30 of each year.

(Ord. No. 69, § 4, 9-1-81; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

(Ord. No. 2004-055, § 2C, 1-18-05; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Secs. 2-613— Small, Women-Owned and Minority-Owned Businesses

To promote free competition and equal opportunity Anderson County is committed to assisting small, minority-owned and women-owned businesses in becoming active vendors with the County. Anderson County encourages and invites small, women-owned, and/or minority-owned businesses located inside and outside of the County to participate in Anderson County's procurement process. It is the policy of Anderson County to prohibit discrimination against any person or business in pursuit of procurement opportunities on the basis of race, color, national origin, ancestry, religion, disability, political affiliation, or gender.

(Ord. No. 2019-054, 12-3-2019)

DIVISION 2. - CONTRACTS AND COMPETITIVE BIDDING

FOOTNOTE(S):

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Editor's note—Ord. No. 2013-004, § 1(Exh. A), adopted Mar. 19, 2013, amended Div. 2 in its entirety to read as herein set out. Former Div. 2, §§ 2-631—2-653, pertained to similar subject matter. See the Code Comparative Table for a complete history of former Div. 2.

State Law reference— Public access to procurement information, S.C. Code 1976, § 11-35-410.

Sec. 2-631. - Competitive bidding policy.

All public purchases shall be made in a manner which provides for the greatest economy for the taxpayer, the fairest selection of vendor and the prevention of conflicts of interest. Toward this end, it shall be policy of the county that, whenever practical, and except as otherwise noted in this article, goods and services required by county agencies shall be procured through competitive bidding or proposals when the expected cost exceeds \$50,000.00 The open market procedures of request for quotation will be used when the expected cost is less than \$50,000.00.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-632. - Purchasing review panel.

- (a) **Creation.** There is hereby created the county purchasing review panel (review panel) which shall be charged with the responsibility of providing an administrative review of the formal protests of decisions arising from the solicitation and award of contracts, the debarment or suspension of a person from consideration for award of a contract, a decision concerning the resolution of a contractor breach of contract controversy or any other decision, policy or procedure arising from or concerning the expenditure of county funds for the purchase of any supplies, services or construction procured in accordance with the provisions of this Code and the ensuing regulations, except as to those contract decisions made by county council.
- (b) **Membership.** Upon being advised of the need for a matter to be considered by the review panel, the County Administrator shall appoint a purchasing review panel, to be chaired by the Purchasing Director and include one County staff member and one or more additional member(s) to resolve procurement protests, debarments or suspensions, and contract controversies.

- (c) Procedure. If the purchasing department forwards a grievance filed under the provisions of subsection 2-634 (i) to the review panel, the chairperson shall convene the review panel within ten business days to conduct an administrative review of the determinations rendered under preceding sections. The review panel shall record its determination within 30 days following its meeting and shall communicate its decision to those involved in the determination.
- (d) Finality. A determination by the review panel may be appealed directly to the county council within ten days except as state above. The appeal shall be served on the County Administrator who shall arrange a hearing before County Council.

If the County Council shall hold a hearing as is deemed appropriate, its decision will be final. If County Council denies a hearing, the decision of the review panel shall be final.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)
(Ord. No. 2021-020, 05-04-2021)

Sec. 2-633. - Purchasing director to prepare procedural regulations.

- (a) Generally. The purchasing director is hereby authorized to prepare procedural regulations to amplify the provisions of this article; to submit such regulations and amendments thereto the administrator; to promulgate and enforce compliance with such regulations including, but not limited to:
 - (1) The procedure for handling bids, including their custody and safeguarding; opening and tabulation; rejection and re-advertising; and the procedure for determining the lowest responsible bidder;
 - (2) The procedure for securing from bidders and prospective bidders the data necessary to determine whether or not they are responsible;
 - (3) The procedure for inspection of deliveries of supplies, materials, equipment and contractual services;
 - (4) The procedure for reporting receipt of deliveries of supplies, materials, equipment and contractual services;
 - (5) The procedure for submitting requisitions for the supplies, materials, equipment and contractual services required by the using agencies;
 - (6) The procedure for making emergency purchases;
 - (7) The procedure for control and safeguarding of supplies, materials and equipment in storerooms or at storage points;

- (8) The procedure for determining from heads of using agencies estimated future requirements for supplies and services needed on a recurring basis;
 - (9) Such procedures as may be necessary, in conjunction with the Anderson County Finance Office, for Anderson County divisions, departments, and offices, receiving public funds from Anderson County Council, to conduct no less than an annual inventory and accounting for all Anderson County capital assets with an initial acquisition value, based on the smallest separately identifiable component or item of such capital asset, in the amount of \$5,000.00; and
 - (10) Such matters as may be necessary to give effect to provisions of this part and any amendments thereto.
- (b) Copy available. A copy of such regulations shall be available in the purchasing director's office and shall be open to public inspection during regular business hours.
 - (c) Conflict between regulations and County Code. To the extent there is any conflict or inconsistency between the Anderson County Code and the regulations contemplated under this section 2-633, the Anderson County Code shall control. County Council shall be notified of any claimed conflict or inconsistency.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017), (Ord. No. 2019-035, 09-06-2019)

Sec. 2-634. - Formal contract procedure.

- (a) Generally. Unless otherwise exempted or provided for under this article V, all purchases of supplies, materials, equipment or contractual services, when the estimated cost thereof shall exceed \$50,000.00 shall be made according to the procedures proscribed in this section 2-634 from the lowest responsive, responsible bidder after due notice inviting bids.
- (b) Notice inviting bids. The purchasing director shall invite bids through the following methods:
 - (1) Posting on a bulletin board at the county office building giving a brief description of the items to be purchased.
 - (2) Written invitations to bid shall be mailed or emailed to a minimum of five qualified bidders and shall include specifications and all terms and conditions which will be considered in awarding the contract.
 - (3) Advertise in South Carolina Business Opportunities (SCBO).
- (c) Submission of bids. All bids shall be on an official bid form or attached to a bid form provided by the purchasing department and shall be sealed, marked "sealed bid" with the unique number assigned to the bid and mailed or otherwise delivered to the Anderson County Purchasing Department by the time specified in the invitation to bid. Late bids shall not be considered unless the delay was caused by improper handling

by county employees. All bids shall be accompanied by a statement of non-collusion from the bidder.

- (d) Deposit of sealed bids into locked cabinet or safe. All bids shall be delivered to the Anderson County Purchasing Department at Room 115, 101 S. Main Street, Anderson, South Carolina 29624. The Purchasing Director or his/her designee shall place all bids in the locked cabinet or safe.
- (e) Safeguarding of bids. All bids shall be kept secure and unopened in a locked cabinet or safe. The cabinet or safe shall be located within the Purchasing Director's office.
- (f) Bid surety. Bid surety shall be required as specified in section 2-647. For purchases covered under this section, a bid bond or certified check is required as bid surety in the amount of five percent. Each invitation to bid, which shall be publicized, shall state this requirement.
- (g) Opening of bids. All bids shall be opened publicly and tabulated in the presence of one or more witnesses at the time and place designated in the invitation for bids. No information pertaining to the bids shall be released during the evaluation period and prior to the final decision. After the final decision has been released, all information shall be publicly available for at least 15 days, and thereafter may be obtained through a Freedom of Information Act request.
- (h) Award of contract. Except as hereinafter prescribed, all contracts shall be awarded to the lowest responsive and responsible bidder whose bid complies materially with the specifications publicized. No advance payment shall be made without the consent of the County Council. The administrator may, however, upon the advice and recommendation of the purchasing director and with notification to County Council, refuse all bids or may refuse any bid that is not responsive or is not from a responsible bidder or for any other reason justified by this article and may direct the purchasing director to re-advertise for bids, if required, if the public interest would be served thereby; provided, however, that if the administrator shall refuse all bids, he shall retain, for county records, a written explanation of the reasons therefore and notify County Council of said reasons. All bids or quotes received under this section 2-634 shall be subject to review and approval by the administrator. Except where federal or state grant monies are involved, the County Council shall publicly approve each successful bid or quote which exceeds \$250,000.00, but solely for the purpose of approving the expenditure of funds. It is specifically not the intent of this section that the County Council shall have any role in the selection of successful bids or quotes, but only that County Council approve such ultimate selection publicly. Change orders for previously approved construction contracts which cause the project to exceed budget or comprise ten percent or more of the total project cost require County Council approval.
- (i) Procedure in case of identical low bids. If the purchasing director does not suspect that the bids are a result of collusion, he may award the contract to the firm located in Anderson County when tied with an out-of-county firm. Tie bids involving either two in-county firms or two out-of-county firms may be resolved by the flip of a coin to determine the winning bid. Corrections or withdrawals of erroneous bids may be

permitted. Bids may be rejected, if it is in the best interest of the county and done with valid reasons with the approval of the administrator and notification to County Council.

- (j) Forfeiture of bid surety. If the successful bidder does not enter into a contract within seven days after mailing of notice of award of contract, he shall forfeit any surety which accompanied his bid, unless the county is responsible for the delay. He shall also be held liable for any cost in excess of his bid surety which the county incurs in purchasing the goods or services elsewhere. All invitations to bid and bid forms will include this language.
- (k) Protested solicitations and awards.
 - (1) Right to protest. Any actual or prospective bidder, offeror, contractor or subcontractor who is aggrieved in connection with the solicitation or award of a contract may protest to the purchasing director. The protest, setting forth the grievance, shall be submitted in writing within ten days after such aggrieved persons know or should have known of the facts giving rise thereto, but in no circumstance after 30 days of notification of award of contract. County Council shall be notified of any protest made hereunder.
 - (2) Authority to resolve protests. The purchasing director shall have authority with the advice and consent of the administrator prior to the commencement of an administrative review, as provided in this article, to settle and resolve a protest of an aggrieved bidder, offeror, contractor or subcontractor, actual or prospective, concerning the solicitation or award of a contract without cost to the county. This authority shall be utilized in a manner consistent with regulations or laws governing the procurement of supplies, services and construction for the county. County Council shall be notified of any settlement and resolution made hereunder.
 - (3) Decision. If the protest is not resolved by mutual agreement, the purchasing director shall promptly issue a decision in writing within ten days. The decision shall state the reasons for the action taken. County Council shall be notified of the decision made hereunder.
 - (4) Notice of decision. A copy of the decision under subsection (3) of this section shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.
 - (5) Finality of decision. A decision under subsection (3) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected by the decision requests a review, in writing, setting forth the grievance, to the purchasing review panel (review panel), under section 2-632, within ten days of the decision. The protestant may also request an interview with the panel.
 - (6) Request for review. The request for a review shall not stay the purchase or contract unless fraudulent.
 - (7) Reimbursement for reasonable costs and authority to grant other relief. If a protestant contends that it should have been awarded the contract under a solicitation but is not, then the party may apply to the review panel, as provided

for in section 2-632, for relief. Upon receipt of this application, the review panel may order the computation and award of a reasonable reimbursement amount, including reimbursement of bid preparation costs, and may order such other and further relief as justice dictates, including, but not limited to, a re-award of the contract or a rebid of the contract. The decision of the review panel and/or County Council shall be the final administrative review, subject only to review in circuit court.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-635. - Sole source procurement.

A contract may be awarded for a supply, service or construction item without competition when the purchasing director determines that there is only one source for the required supply, service or construction item.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-636. - Competitive sealed proposals.

- (a) Conditions for use. When the purchasing director recommends to the County Administrator and it is determined that the use of competitive sealed bidding is not practicable or advantageous to the county, competitive sealed proposals may be used. Proposals shall be solicited from at least five qualified sources, when such sources are available. Public notice shall be given in the same manner as stated in Sec. 2-634(b).
- (b) Proposal opening. Proposals shall be opened and only the names of the companies disclosed. Contents of competing offerors shall not be disclosed during the process of negotiation. Proposals shall be open for public inspection after award of the contract. Confidential proprietary material marked as such in the proposal shall not be disclosed.
- (c) Discussion with responsible offerors. Discussions may be conducted for the purpose of clarification and a full understanding of the requirements. Offerors shall be accorded fair and equal treatment.
- (d) Evaluation factors. The request for proposal shall state the evaluation factors in order of importance. Price and qualifications of the offeror shall be the two most significant factors to be taken into consideration when evaluating any proposal solicited under this section. Economic impact to the county may also be a consideration.
- (e) Award. The award shall be made to the offeror whose proposal is determined to be the most advantageous to the county, taking into consideration the evaluation factors set forth in the proposal. The contract file shall contain the basis on which the award was made.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-637. - Request for qualifications for professional services.

- (a) It is the policy of the county to announce publicly all requirements for professional services, including legal and auditing, and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of professional services, the purchasing director may, as required, request firms to submit a statement of qualifications and performance data. Professional services include, but is not limited to, architects, engineers, land surveying services, legal and auditing. The County Administrator may, as he deems appropriate, engage the services of professionals, particularly in matters that require confidentiality, or in situations where specialized expertise is required and not otherwise available with existing personnel.
- (b) Selection process. A selection committee composed of at least three members, to include the administrator or designee, the head of a using Department and one other person approved by the Administrator in need of the architect-engineer or land surveying services or other professional services shall conduct discussions with no less than three firms whenever possible regarding the proposed contract and the relative utility of alternative methods of approach for furnishing the required services and shall select from among them no less than two of the firms deemed most qualified to provide the required services. The selection of finalists shall be made in order of preference, based on criteria established and published by the selection committee, with the order of preference becoming a factor only in the event competitive bidding is prohibited by law.
- (c) Bidding and negotiation. Once the finalists are determined by the procedure set forth in preceding subsection, the purchasing director shall transmit a notice inviting bids to the finalists and the provisions of subsection 2-634(c) through (k) shall apply. In the event competitive bidding for services is prohibited by law, the remainder of this subsection shall apply. The purchasing director shall negotiate a contract with the advice and consent of the administrator or designee, with the firm so selected to be the most qualified for architect-engineer, land surveying or other professional services at compensation which the purchasing director determines in writing to be fair and reasonable to the county. In making this decision, the purchasing director shall consider the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Should the purchasing director be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the purchasing director determines to be fair and reasonable to the county, negotiations with that firm shall be formally terminated. The purchasing director shall then undertake negotiations with other firms as selected by the committee in the order selected until an agreement is reached. At the completion of negotiations, a tabulation of fees proposed by the organizations solicited will be prepared and mailed or delivered to all interested parties.
- (d) External auditors. The procedures of this section shall be utilized to procure the services of the external, independent, certified professional accountants utilized by the county to conduct the county's annual external audit of its finances and financial records. Every independent, certified, professional accountant or accounting firm

selected to perform the county's external, independent financial audit under this subsection must include, on staff, a certified fraud examiner who shall, as a part of the county's external, Independent financial audit, review for fraud, according to accepted and recognized, established accounting policies and procedures.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-638. - Purchases not exceeding \$50,000.00.

Purchases where the estimated cost of the materials, equipment, or supplies is \$20,000.01 to \$50,000.00, excluding tax, shall be made upon solicitation of written quotes from five qualified sources. Documentation of the solicitation and written responses shall be maintained in the quotation file. The purchasing director shall not be required to advertise publicly to invite quotations. The administrator may, at his discretion, require formal notice when such procedure is in the public interest.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-639. - Purchases not exceeding \$20,000.00

Purchases where the estimated cost of the materials, equipment, or supplies is \$5,000.01 to \$20,000.00, excluding tax, shall be made upon solicitation of verbal or written quotes from a minimum of three sources. Documentation of the solicitation and responses shall be maintained in the quotation file. The administrator may require that vendors submit written bids when such procedure is in the public interest.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-640. - Purchases not exceeding \$5,000.00.

Any procurement of goods or services where the estimated cost is \$5,000.00 or less, excluding tax, may be made without competition if the purchasing director certifies that the price is deemed to be "fair and reasonable". Additional competition may be obtained whenever there is a reason to believe a quotation does not represent a fair and reasonable price.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-641. - Local preference.

The purchasing director shall grant those vendors maintaining a place of business in Anderson County a local preference of five percent. The local preference does not apply to purchases less than \$50.00 or more than \$100,000.00, excluding tax. Provided however, that if the procurement is to be made pursuant to state or federal guidelines which prohibit or restrict local preference, then in such circumstances there shall be no local preference.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-642. - Emergency purchases.

- (a) By director. In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the administrator or designee shall be empowered to authorize the director or his designee to secure by open market procedure as set forth in this article, at the lowest obtainable price, any supplies or contractual services regardless of the amount of the expenditure. A full report of the circumstances of an emergency purchase shall be filed by the director with the administrator and County Council will be notified.
- (b) By head of department. In case of actual emergency, the head of any using department or agency may purchase directly any supplies and services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health, safety or welfare of citizens.
 - (1) Recorded explanation. The head of such department or agency shall send to the purchasing director a requisition and a copy of the delivery record together with a full written report of the circumstances of the emergency. The report shall be filed with the administrator as provided in subsection (a) of this section and County Council will be notified upon request.
 - (2) Emergency procedure. The director shall prescribe by rules and regulations the procedure under which emergency purchases by heads of using agencies may be made. A copy of those procedures shall be supplied to County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-643. – State/Federal Purchasing.

The purchasing director may purchase any supplies, materials, equipment or contractual services through the State Procurement Office of the Division of General Services or through contract programs available through the federal General Services Administration (GSA).

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-644. - Purchase negotiations.

- (a) Generally. When lack of price or product competition renders the purposes of competitive bidding ineffective, the purchasing director may purchase supplies, materials, equipment or contractual services through negotiation with a vendor in accordance with preceding sections pertaining to limitations and approvals.

- (b) When permissible. Purchase by negotiation may be made when one of the following types of conditions exist:
- (1) Items are obtained from only one source, and there are no acceptable equivalents;
 - (2) Bids are received, but prices are unreasonable;
 - (3) Emergencies exist. Emergencies shall be deemed to exist when a breakdown in machinery or in an essential service occurs, or when unforeseen circumstances arise, including delays by contractors, delays in transportation or unanticipated volume of work. In such cases, awards can be made without notice of intent as required in subsection (d) of this section;
 - (4) A contract already exists on a family of items that must be compatible;
 - (5) Repair and replacement parts or accessories peculiar to specialized equipment are needed;
 - (6) Identical bidding is a persistent pattern;
 - (7) Resale price maintenance is practiced by manufacturers, such as exclusive dealerships or other methods which result in only pre-established, published prices being offered;
 - (8) There are reasonable indications of collusive bidding; or
 - (9) Contracts are renewed if provided for in the original bid invitation.
- (c) Negotiated purchases. Written records shall be maintained for a period of three years of all negotiated bids. Such records shall include the name of the vendee, the amount of purchase, the equipment or supplies purchased and a justification for the negotiated bid.
- (d) Notice of intent. When the estimated cost of the supplies, materials, equipment or contractual services to be purchased by negotiation shall exceed \$25,000.00, the purchasing director shall advertise, except in the case of an emergency as defined in subsection (b) (3) of this section, a notice of intent to award a contract at least one time in a newspaper of general circulation in the county.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-645. - Exceptions.

- (a) Prohibition against subdivision. No contract or purchase may be subdivided or "stacked" to avoid the requirements of this article; provided, however, that individual items may be purchased from different bidders if:
- (1) The requirements of preceding sections are followed with respect to the entire estimated cost of all items for which bids are invited; and
 - (2) Such practice is consistent with the terms of the notice inviting bids.

- (b) Award to other than low bidder. It is the policy of the county to award all contracts or purchases to the lowest responsive, responsible bidder, unless a combination of the following factors outweighs the single factor of cost, in which event justification to that extent will always be required to and approval received from the administrator or designee with notification to County Council:
 - (1) The ability of the bidder to perform the contract or provide the goods or services promptly or within the time specified without delay or interference;
 - (2) The quality, availability and adaptability of the goods or service for the use of the subject of the contract;
 - (3) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (4) The number and scope of conditions attached to the bid;
 - (5) The delivery and discount terms of the bids;
 - (6) The convenience of the location where the goods are to be delivered or picked up or the service is to be rendered; and
 - (7) The best interests of the citizens of the county.
- (c) Price escalation clauses. The purchasing director may enter into contracts containing price escalation clauses upon the approval of the administrator or designee, provided that such escalations may reasonably be expected not to raise the average price of goods or services higher than prices offered by other bidders.
- (d) Cancellation of contracts. The purchasing director shall have the right to cancel any purchase or contract when the vendor is found to have violated or attempted to violate the provisions of this article or in any of the following instances and County Council will be notified:
 - (1) If the vendor fails to make delivery within the time specified in the contract;
 - (2) If the vendor fails to provide service when service is part of the contract;
 - (3) If any supplies, materials or equipment delivered under the contract are rejected and are not promptly replaced by the vendor (if there are repeated rejections, the contract may be canceled, even though the vendor agrees to replace the items promptly);
 - (4) If the vendor agrees to cancellation; or
 - (5) If the contract is obtained by fraud, collusion, conspiracy or by any method which is in conflict with statutory or constitutional provisions of the state.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-646. - Purchase of surplus equipment.

Purchase of surplus equipment will be by the purchasing director with the approval of the administrator and notification to County Council. The purchasing director will work with the using departments in obtaining the supplies from surplus property.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-647. - Performance bonds.

The purchasing director shall require a 100 percent performance bond and a bid bond of five percent for every construction contract involving the performance of labor expected to cost \$100,000.00 or over. Any construction contract involving the performance labor estimated to cost less than \$100,000.00 but more than \$25,000.00 shall require a 100 percent performance bond or a certified check of ten percent of the contract amount, or some other amount set by County Council. Whenever a performance bond is required, a payment bond shall likewise be required. The provisions of this section may be waived by County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-648. - Charges for plans and specifications.

When contractors require plans and specifications in order to submit a bid, the county may supply same and make charges for them. The county may, at its option, sell specific sheets of plans to contractors as may be required; however, specifications must be treated as a whole and charges made for them.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-649. - Retainage.

A ten percent retainage shall be retained by the county for every Construction project, other than Road Improvements. When 50 percent of the completion of the project has been obtained and when the County Council so approves, retainage may be reduced to zero, thus making the retainage actually five percent. Contractors may apply, in writing, to the administrator for this reduction. A 3.5 percent retainage shall be retained by the county for all Road Improvement projects.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-650. - Time limits.

- (a) For every contract the county enters into, a time frame shall be established and incorporated into the contract between the county and the contractor. This time limit shall set the completion date of the work provided by the contractor. If the contractor

fails to perform the stated work within the time frame, liquidated damages may be assessed by the county as indicated in the contract.

- (b) In solicitation for bids, proposals or qualifications, the county shall specify that the contractor shall provide in his bid document a time frame for completing the project. The county may, at its option, specify in its request for proposals, request for qualifications or in its invitation for bids a time frame for the completion of the work. If the contractor cannot provide the work in that time frame, he shall so indicate in his bid or his proposal, and the county shall take that into consideration. Any agreements reached between the contractor and the county shall be so stipulated in the contract agreement between the parties.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-651. - Exemptions.

At the discretion of the purchasing director, the following items are exempt from the purchasing procedures set forth above, but must still be acquired by the maximum level of competition available under the circumstances: utilities, fuel, heating fuel, asphalt, gravel and other aggregates, rentals, travel, telephone repair service, postage and post office box rentals, freight and express bills, dues and registration fees, bank services, detention center food items not otherwise covered by contract, published books, periodicals, advertising, speaker and musician fees reimbursed from admission charges, veterinary supplies, copyrighted educational materials only available from a single supplier, appraisers, aircraft repair work where the work is to be reimbursed by the aircraft owner and articles for commercial resale.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-652. - Notification to County Council.

Whenever notification to County Council is called for in this article V, notification shall be made by the administrator via his/her report given at the regularly scheduled meetings of County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-653. - Sale of real property.

All county owned real property to be sold shall first be appraised by a qualified and licensed real estate appraiser and the appraised value shall determine the course of sale which at the discretion of County Council shall be by public auction or upon receipt of sealed bids pursuant to section 2-634, or by engaging the services of a broker to sell the property. If the sale is by public auction or upon receipt of sealed bids, notice of the sale shall be published at least once per week for four weeks in a newspaper of general circulation and shall also be posted at the county purchasing office and the property site. Said notice shall be posted for a reasonable amount of time, but no less than 30 days

prior to the sale, and state the terms and conditions along with the appraised value of the property to be sold. If the sale is through engaging the assistance of a broker, any proposals presented by the broker may be accepted or rejected in the sole discretion of County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-025, 6-20-2017)

Sec. 2-654. - Maintenance and use of vendor list; tracking of purchases by NIGP Code.

- (a) The purchasing director shall maintain an electronic database of all qualified and responsible vendors sorted by the National Institute of Government Purchasing Commodity/Services Code, 18th edition ("NIGP Code"). Vendors maintaining a place of business in the county shall be notified by reasonable means periodically, but at least annually, of the opportunity to apply for placement in the database.
- (b) When notification of the opportunity to provide goods or services to the county is required under this division 2, whether by sealed bid (section 2-634), requests for proposals (section 2-636) or requests for qualifications (2-637) as well as in those circumstances where verbal or written quotes are called for depending upon the threshold amount of the purchase, notice or requests for quotes, as the case may be, shall be transmitted (electronically where the vendor has provided an email address to the purchasing department) to all applicable vendors in the database maintained by the purchasing director pursuant to the preceding subsection as well as to any other vendor deemed qualified and appropriate by the purchasing director.
- (c) Beginning with purchases made after the effective date of this division, the purchasing director shall maintain an inventory by NIGP Code of all purchases made under this division which exceed \$5,000.00.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-655. – Project Delivery Methods Authorized for Infrastructure Facilities.

- (a) The County Administrator shall have the discretion to use (i) design-bid-build, (ii) construction management at-risk, (iii) operations and maintenance, (iv) design-build, (v) design-build-operate-maintain and (vi) design-build-finance-operate-maintenance as alternatives for procurement relating to infrastructure facilities and these alternative project delivery methods shall have the definitions as provided in Section 11-35-2910 of the South Carolina Code of Laws, 1976, as amended. In exercising such discretion, the County Administrator shall consider the method which in the Administrator's discretion is the most advantageous to the County and will result in the most timely, economical, and successful completion of the infrastructure project. The determination of the method of source selection utilized shall be stated in writing and included as part of the contract file. As a part of this determination, the County Administrator shall

determine if the County should prepare a request for proposals for providing such alternative for procurement related to the infrastructure project or if the County should retain outside consulting services to prepare such request for proposals.

(b) If the County Administrator determines that the use of an alternative project delivery method identified hereon is the most advantageous means of securing the construction contracting administration, the selection of the method of construction contracting administration used by the County and set forth in §2-655(a) shall be submitted for review to the County Council. Within 15 days after notice of such review, an interested party shall submit to the County Council written comments which set forth the position of the party with respect to the decision as to which construction contracting method to use. At the next meeting of the Council, which is at least 15 days following notice of such review, those who submitted comments may address the Council. If County Council does not reject the selection of this method, the construction contracting administration shall be secured in the manner set forth in §2-655.

(c) If the method of construction contracting administration is determined under this Section, the Chairman of County Council shall select an independent monitor from an agency of County Government who does not report directly or indirectly to the County Administrator to observe the source selection process to determine if the process was fair, open and competitive at the time of source selection. The monitor shall give a written report to the Chairman which sets forth these findings.

(d) If the competitive sealed proposal method of construction contracting administration is determined to be the most advantageous to the County, the County shall use such method set forth in §2-636 for the purposes of procuring this project delivery method. The request for proposals for any of these services shall set forth the criteria which the County will be using to select the successful proposal.

(Ord. No. 2018-059, 12-18-2018)

Secs. 2-656—2-670. - Reserved.

ARTICLE V. - PURCHASING

Proposed Changes in RED.

FOOTNOTE(S):

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Cross reference— Purchasing director, § 2-266 et seq.

State Law reference— County required to develop and adopt procurement laws, S.C. Code 1976, § 11-35-50.

DIVISION 1. - GENERAL

Sec. 2-601. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agency and using agency means and includes any department, office, board, commission or other organizational unit for which the council has line-item budgetary authority and whose affairs or funds are under the control of the council.

Bidders list means a current file of sources of supply of articles for each category of commodities repetitively purchased for county use.

Contractual services means and includes any telephone, gas, water, electrical light and power services; towel, window washing and cleaning service; the rental of equipment and machinery; and all other types of agreements under which the contractor provides services which are required by the county government but not furnished by its own employees; provided, however, that contractual services shall not include legal advertising and purchases of space for legal advertising which shall not be subject to the provisions of this article. Such contracts may be in the form of a "contract" under which certain services will be provided for a specified period of time at an agreed-upon cost.

Inventory means the annual capital asset inventory required by section 2-612, annual capital asset inventory, of this article.

Irresponsible bidder means and includes any bidder or prospective bidder who fails to furnish, upon written request, proof of his responsibility and who has, as a vendor or contractor with the county, repeatedly made slow or unsatisfactory deliveries; or who has violated, or attempted to violate, the provisions of this article.

Personal services means and includes the services of janitorial, office machine repair, elevator repair or other individuals possessing technical type repair or service skills.

Responsible bidder means and includes any bidder who submits a responsive bid; who has furnished, when requested, information and data to prove that his financial resources, production of service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, materials, equipment or contractual services on which he bids; and who has not violated, or attempted to violate, any provisions of this article.

Responsive bid means and includes any offer submitted by a responsible bidder in ink or typewritten on the prescribed form to furnish supplies, materials, equipment or contractual services in conformity with the specifications, delivery terms and conditions, and other requirements included in the invitation for bids.

Supplies, materials and equipment means and includes any articles or things which shall be furnished to or used by any agency, including any printing, binding or publication of stationery, forms, laws, journals and reports, but excluding services or materials furnished "in kind" in lieu of cash to indigents.

(Ord. No. 394, Div. 1, § 1, 10-5-93; Ord. No. 2004-055, § 2A, 1-18-05; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Cross reference— Definitions generally, § 1-2.

Sec. 2-602. - Placement and operation of vending machines, food services, pay telephone and other concessions on county property.

(a) Generally. All vending machines, food service operations, or other concessions to be placed and operated in any building or on any property owned or occupied by any department or agency of the county shall be secured through a process of competitive bidding, if it is to the advantage of the county to do so.

- (b) Installation commission basis. Unless specifically exempted by the County Council, no vending machine, pay telephone or other concession device shall be purchased by the county. All concessions shall be placed and operated on an installation/commission basis.
- (c) Disposition of commissions. All commissions earned from any concession on county property shall be deposited with the county treasurer through the finance department, to be credited to the general fund except as otherwise approved by the County Council.
- (d) Applicability. This section shall apply to all property owned or leased by the county, including, but not limited to, the administration buildings, courthouses, law enforcement center, public works center, environmental solid waste disposal sites or any other property occupied by any county department or agency.
- (e) Exemptions. This section shall not apply to any concession granted to a blind person or to the state commission for the blind pursuant to the provisions of S.C. Code 1976, §§ 1-1-520 and 43-25-70. The County Administrator may grant manual concessions to any handicapped person in preference to any other person submitting a bid under the purchasing ordinance. This section shall not apply to concessions operated on property leased by the county to any other person or agency and concessions at the civic center and detention center shall not be subject to these policies, but be credited to the center in which commissions are generated for public purposes as stated by the directors.

(Ord. No. 394, Div. 2, § 2, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09); Ord. No. 2017-035, 10-03-2017)

Sec. 2-603. - Centralized purchasing required.

It shall be the policy of the County Council that goods and services required by county agencies shall be procured by the use of centralized purchasing procedures unless specifically exempted by County Council.

(Ord. No. 394, Div. 3, § 1, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Sec. 2-604. - Petty cash expenditures revolving fund.

There is hereby established the petty cash expenditures revolving fund to be administered by the finance director or his designee. Any purchase

estimated to cost under \$50.00 may, with the approval of the finance director or his designee, be made from this fund.

The finance director or his designee shall formulate policies for the disbursement of and accounting for any monies in this fund.

(Ord. No. 394, Div. 3, § 15, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09),

Sec. 2-605. - Purchase order required.

Any purchase made pursuant to this article with county funds shall be recorded on a purchase order bearing the quantity and description of each item to be purchased.

(Ord. No. 394, Div. 3, § 16, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Sec. 2-606. - Sales of county property.

Any items of personal property belonging to the county which are declared by the County Administrator to be obsolete or surplus may be sold to the highest responsible bidder. The purchasing director shall ensure that the procedures described in this section are followed, according to the estimated dollar salvage value of the goods to be sold; provided, however, that the administrator or designee may order such goods to be sold at public auction pursuant to proper public notice in lieu of sealed or written bids. In the event it is determined by the purchasing director to be in the economic interest of the county, surplus or used equipment and properties may be used for trade-in on purchases of like-kind new equipment and properties with approval of the administrator. The purchasing director shall demonstrate these advantages to the administrator and obtain his consent to proceeding with the trade-in and purchase. Each separately identifiable capital asset of the county, whether attached to or added on to some other county asset or not, as reflected on each county department's annual capital asset inventory, shall be treated as a separate item of personal property for purposes of this section. Notwithstanding the foregoing and upon request by a local governmental entity or a not for profit organization, obsolete or surplus property may be transferred to the requesting entity provided the purchasing director decides any property to be transferred is of such little value that the economic interest of the county will not be adversely affected; any such transfer must be approved [by] the County Administrator or his/her designee.

County Council shall be notified in advance and approve publicly all dispositions of county property made under this section.

(Ord. No. 394, Div. 3, § 17, 10-5-93; Ord. No. 96-032, § I, 1-21-97; Ord. No. 2004-055, § 2B, 1-18-05; Ord. No. 2009-006, § 1(Exh. A), 9-1-09; Ord. No. 2011-002, § 1, 2-15-2011; Ord. No. 2012-020, § 1, 6-5-2012); (Ord. No. 2015-028, 10-06-2015), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-607. - Purchasing files.

- (a) Generally. The purchasing director shall develop and maintain a list of vendors who offer supplies, materials, equipment or contractual services normally required by county agencies. The purchasing director shall record on the bidders list any significant history of trade with a vendor, whether favorable or unfavorable, for the purpose of determining whether a given vendor is a responsible bidder. The status of a given vendor may be reviewed from time to time by the purchasing director.
- (b) Catalog file. The purchasing director shall develop and update from time to time a file of catalogues for supplies, materials and equipment normally required by county agencies.

(Ord. No. 394, Div. 3, § 18, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-608. - Central supplies and services.

- (a) **Generally.** The purchasing director or other person designated by the administrator may maintain centralized stocks of such items which are normally used by county agencies. Items stocked will be at the discretion of the purchasing director. Purchases of stocked items must be made in accordance with procedures set forth in this Article V with the approval of the administrator and notification to County Council.
- (b) Inventory. The purchasing director or other persons designated shall inventory all such items no less than annually, whether by means of physical counts or perpetual records, certified by periodic physical counts. Copies of all records contemplated under this subsection shall be made available to County Council and the administrator upon request.

- (c) Accounting. The purchasing director or designee shall maintain central supply and service accounts for each class of such items and related services. Purchases of items of stock shall be charged to such accounts.

When such items or related services are provided to county agencies, the purchasing director or his designee shall charge the using department an amount representing the cost of such items or services, and shall credit an equivalent amount to the appropriate central supply and service account.

- (d) Requisitions. Any county agency requiring any goods or services, whether or not stock is available from central supplies and services, shall request such by submitting a requisition to the purchasing department. Such requisition shall be in that form required by the purchasing department.

(Ord. No. 394, Div. 3, § 20, 10-5-93; Ord. No. 96-032, § II, 1-21-97; Ord. No. 2009-006, § 1(Exh. A), 9-1-09), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-609. - Personal interests.

- (a) Conflicts of interest. Any purchase or contract within the purview of this article in which the purchasing director or any officer or employee of the county is financially interested, directly or indirectly, or which is, in any other manner, in conflict with state or local ethics laws, as they may be amended from time to time, shall be void if the other party knew or should have known of the interest or conflict; provided, however, that, before the execution of a purchase or contract, the County Administrator shall have the authority to waive compliance with this section when he finds such interest to be so remote or indirect as to be inconsequential and not in violation of law. No employee or elected official of the county may bid on a county contract if that individual is authorized to exercise decision making authority or responsibility with regard to that contract.

- (b) Gratuities.

- (1) Acceptance prohibited. The acceptance of any gratuity in the form of cash, merchandise or any other thing of value by an employee of the county from any person to whom any purchase or contract is or might be awarded shall be deemed a violation of this article and shall be cause for removal or other disciplinary action. State and local ethics laws govern fully in this regard.

- (2) Other prohibited. The offer of any gratuity by any actual or prospective vendor or contractor shall be cause for canceling any contract involved and for declaring such vendor or contractor an irresponsible bidder.

(Ord. No. 394, Div. 3, § 21, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09),
(Ord. No. 2017-035, 10-03-2017)

Sec. 2-610. - Contracts to be used.

The county shall utilize the contract approved by the County Attorney.

(Ord. No. 394, Div. 4, § 4, 10-5-93; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Sec. 2-611. - Capital expenditures.

- (a) It is hereby enacted that all department heads and agencies, wholly funded by the county, will hereby purchase all capital expenditure items on or before May 15 preceding the end of the fiscal year on June 30 of each and every year.
- (b) It is hereby directed that all departments will place all purchases for any capital expenditure items on or before May 15 of each year and will so direct the purchasing offices of the county of any items to be purchased.
- (c) It is hereby directed that no department heads or agencies of the county, wholly funded by the county, will be allowed to purchase capital expenditure items as of May 15 of each year until the end of the fiscal year, ending June 30 of that year.
- (d) This section does not preclude payment of operational expenses, such as salary pension insurance and all necessary operational bills for the county, but is solely designated in order that all receipts for all capital expenditure items will be in the purchasing office or the administrator's office before the end of the fiscal period ending June 30 of each year.

(Ord. No. 69, § 4, 9-1-81; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

(Ord. No. 2004-055, § 2C, 1-18-05; Ord. No. 2009-006, § 1(Exh. A), 9-1-09)

Secs. 2-613— Small, Women-Owned and Minority-Owned Businesses

To promote free competition and equal opportunity Anderson County is committed to assisting small, minority-owned and women-owned businesses in becoming active vendors with the County. Anderson County encourages and invites small, women-owned, and/or minority-owned businesses located inside and outside of the County to participate in Anderson County's procurement process. It is the policy of Anderson County to prohibit discrimination against any person or business in pursuit of procurement opportunities on the basis of race, color, national origin, ancestry, religion, disability, political affiliation, or gender.

(Ord. No. 2019-054, 12-3-2019)

DIVISION 2. - CONTRACTS AND COMPETITIVE BIDDING

FOOTNOTE(S):

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Editor's note—Ord. No. 2013-004, § 1(Exh. A), adopted Mar. 19, 2013, amended Div. 2 in its entirety to read as herein set out. Former Div. 2, §§ 2-631—2-653, pertained to similar subject matter. See the Code Comparative Table for a complete history of former Div. 2.

State Law reference— Public access to procurement information, S.C. Code 1976, § 11-35-410.

Sec. 2-631. - Competitive bidding policy.

All public purchases shall be made in a manner which provides for the greatest economy for the taxpayer, the fairest selection of vendor and the prevention of conflicts of interest. Toward this end, it shall be policy of the county that, whenever practical, and except as otherwise noted in this article, goods and services required by county agencies shall be procured through competitive bidding or proposals when the expected cost exceeds

~~\$25,000.00~~ **\$50,000.00** The open market procedures of request for quotation will be used when the expected cost is less than ~~\$25,000.00~~ **\$50,000.00**.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-632. - Purchasing review panel.

- (a) Creation. There is hereby created the county purchasing review panel (review panel) which shall be charged with the responsibility of providing an administrative review of the formal protests of decisions arising from the solicitation and award of contracts, the debarment or suspension of a person from consideration for award of a contract, a decision concerning the resolution of a contractor breach of contract controversy or any other decision, policy or procedure arising from or concerning the expenditure of county funds for the purchase of any supplies, services or construction procured in accordance with the provisions of this Code and the ensuing regulations, except as to those contract decisions made by county council.
- (b) Membership. Upon being advised of the need for a matter to be considered by the review panel, the County Administrator shall appoint a purchasing review panel, to be chaired by the Purchasing Director and include one County staff member and one or more additional member(s) to resolve procurement protests, debarments or suspensions, and contract controversies.
- (c) Procedure. If the purchasing department forwards a grievance filed under the provisions of subsection 2-634 (i) to the review panel, the chairperson shall convene the review panel within ten business days to conduct an administrative review of the determinations rendered under preceding sections. The review panel shall record its determination within 30 days following its meeting and shall communicate its decision to those involved in the determination.
- (d) Finality. A determination by the review panel may be appealed directly to the county council within ten days except as state above. The appeal shall be served on the County Administrator who shall arrange a hearing before County Council.

If the County Council shall hold a hearing as is deemed appropriate, its decision will be final. If County Council denies a hearing, the decision of the review panel shall be final.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)
(Ord. No. 2021-020, 05-04-2021)

Sec. 2-633. - Purchasing director to prepare procedural regulations.

(a) Generally. The purchasing director is hereby authorized to prepare procedural regulations to amplify the provisions of this article; to submit such regulations and amendments thereto the administrator; to promulgate and enforce compliance with such regulations including, but not limited to:

- (1) The procedure for handling bids, including their custody and safeguarding; opening and tabulation; rejection and re-advertising; and the procedure for determining the lowest responsible bidder;
- (2) The procedure for securing from bidders and prospective bidders the data necessary to determine whether or not they are responsible;
- (3) The procedure for inspection of deliveries of supplies, materials, equipment and contractual services;
- (4) The procedure for reporting receipt of deliveries of supplies, materials, equipment and contractual services;
- (5) The procedure for submitting requisitions for the supplies, materials, equipment and contractual services required by the using agencies;
- (6) The procedure for making emergency purchases;
- (7) The procedure for control and safeguarding of supplies, materials and equipment in storerooms or at storage points;
- (8) The procedure for determining from heads of using agencies estimated future requirements for supplies and services needed on a recurring basis;

- (9) Such procedures as may be necessary, in conjunction with the Anderson County Finance Office, for Anderson County divisions, departments, and offices, receiving public funds from Anderson County Council, to conduct no less than an annual inventory and accounting for all Anderson County capital assets with an initial acquisition value, based on the smallest separately identifiable component or item of such capital asset, in the amount of \$5,000.00; and
- (10) Such matters as may be necessary to give effect to provisions of this part and any amendments thereto.
- (b) Copy available. A copy of such regulations shall be available in the purchasing director's office and shall be open to public inspection during regular business hours.
- (c) Conflict between regulations and County Code. To the extent there is any conflict or inconsistency between the Anderson County Code and the regulations contemplated under this section 2-633, the Anderson County Code shall control. County Council shall be notified of any claimed conflict or inconsistency.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017), (Ord. No. 2019-035, 09-06-2019)

Sec. 2-634. - Formal contract procedure.

- (a) Generally. Unless otherwise exempted or provided for under this article V, all purchases of supplies, materials, equipment or contractual services, when the estimated cost thereof shall exceed ~~\$25,000.00~~ **\$50,000.00** shall be made according to the procedures proscribed in this section 2-634 from the lowest responsive, responsible bidder after due notice inviting bids.
- (b) Notice inviting bids. The purchasing director shall invite bids through the following methods:
 - (1) Posting on a bulletin board at the county office building giving a brief description of the items to be purchased.

- (2) Written invitations to bid shall be mailed or emailed to a minimum of five qualified bidders and shall include specifications and all terms and conditions which will be considered in awarding the contract.
- (3) Advertise in South Carolina Business Opportunities (SCBO).
- (c) Submission of bids. All bids shall be on an official bid form or attached to a bid form provided by the purchasing department and shall be sealed, marked "sealed bid" with the unique number assigned to the bid and mailed or otherwise delivered to the Anderson County Purchasing Department by the time specified in the invitation to bid. Late bids shall not be considered unless the delay was caused by improper handling by county employees. All bids shall be accompanied by a statement of non-collusion from the bidder.
- (d) Deposit of sealed bids into locked cabinet or safe. All bids shall be delivered to the Anderson County Purchasing Department at Room 115, 101 S. Main Street, Anderson, South Carolina 29624. The Purchasing Director or his/her designee shall place all bids in the locked cabinet or safe.
- (e) Safeguarding of bids. All bids shall be kept secure and unopened in a locked cabinet or safe. The cabinet or safe shall be located within the Purchasing Director's office.
- (f) Bid surety. Bid surety shall be required as specified in section 2-647. For purchases covered under this section, a bid bond or certified check is required as bid surety in the amount of five percent. Each invitation to bid, which shall be publicized, shall state this requirement.
- (g) Opening of bids. All bids shall be opened publicly and tabulated in the presence of one or more witnesses at the time and place designated in the invitation for bids. No information pertaining to the bids shall be released during the evaluation period and prior to the final decision. After the final decision has been released, all information shall be publicly available for at least 15 days, and thereafter may be obtained through a Freedom of Information Act request.
- (h) Award of contract. Except as hereinafter prescribed, all contracts shall be awarded to the lowest responsive and responsible bidder whose bid complies materially with the specifications publicized. No advance payment shall be made without the consent of the County Council. The administrator may, however, upon the advice and recommendation of the purchasing director and with notification to County Council, refuse all bids

or may refuse any bid that is not responsive or is not from a responsible bidder or for any other reason justified by this article and may direct the purchasing director to re-advertise for bids, if required, if the public interest would be served thereby; provided, however, that if the administrator shall refuse all bids, he shall retain, for county records, a written explanation of the reasons therefore and notify County Council of said reasons. All bids or quotes received under this section 2-634 shall be subject to review and approval by the administrator. Except where federal or state grant monies are involved, the County Council shall publicly approve each successful bid or quote which exceeds ~~\$100,000.00~~ \$250,000.00, but solely for the purpose of approving the expenditure of funds. It is specifically not the intent of this section that the County Council shall have any role in the selection of successful bids or quotes, but only that County Council approve such ultimate selection publicly. Change orders for previously approved construction contracts which cause the project to exceed budget or comprise ten percent or more of the total project cost require County Council approval.

- (i) Procedure in case of identical low bids. If the purchasing director does not suspect that the bids are a result of collusion, he may award the contract to the firm located in Anderson County when tied with an out-of-county firm. Tie bids involving either two in-county firms or two out-of-county firms may be resolved by the flip of a coin to determine the winning bid. Corrections or withdrawals of erroneous bids may be permitted. Bids may be rejected, if it is in the best interest of the county and done with valid reasons with the approval of the administrator and notification to County Council.
- (j) Forfeiture of bid surety. If the successful bidder does not enter into a contract within seven days after mailing of notice of award of contract, he shall forfeit any surety which accompanied his bid, unless the county is responsible for the delay. He shall also be held liable for any cost in excess of his bid surety which the county incurs in purchasing the goods or services elsewhere. All invitations to bid and bid forms will include this language.
- (k) Protested solicitations and awards.
 - (1) Right to protest. Any actual or prospective bidder, offeror, contractor or subcontractor who is aggrieved in connection with the solicitation or award of a contract may protest to the purchasing director. The protest, setting forth the grievance, shall be submitted in writing within

ten days after such aggrieved persons know or should have known of the facts giving rise thereto, but in no circumstance after 30 days of notification of award of contract. County Council shall be notified of any protest made hereunder.

- (2) Authority to resolve protests. The purchasing director shall have authority with the advice and consent of the administrator prior to the commencement of an administrative review, as provided in this article, to settle and resolve a protest of an aggrieved bidder, offeror, contractor or subcontractor, actual or prospective, concerning the solicitation or award of a contract without cost to the county. This authority shall be utilized in a manner consistent with regulations or laws governing the procurement of supplies, services and construction for the county. County Council shall be notified of any settlement and resolution made hereunder.
- (3) Decision. If the protest is not resolved by mutual agreement, the purchasing director shall promptly issue a decision in writing within ten days. The decision shall state the reasons for the action taken. County Council shall be notified of the decision made hereunder.
- (4) Notice of decision. A copy of the decision under subsection (3) of this section shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.
- (5) Finality of decision. A decision under subsection (3) of this section shall be final and conclusive, unless fraudulent, or unless any person adversely affected by the decision requests a review, in writing, setting forth the grievance, to the purchasing review panel (review panel), under section 2-632, within ten days of the decision. The protestant may also request an interview with the panel.
- (6) Request for review. The request for a review shall not stay the purchase or contract unless fraudulent.
- (7) Reimbursement for reasonable costs and authority to grant other relief. If a protestant contends that it should have been awarded the contract under a solicitation but is not, then the party may apply to the review panel, as provided for in section 2-632, for relief. Upon receipt of this application, the review panel may order the computation and award of a reasonable reimbursement amount, including reimbursement of bid preparation costs, and may order such other and further relief as justice dictates, including, but not limited to, a re-

award of the contract or a rebid of the contract. The decision of the review panel and/or County Council shall be the final administrative review, subject only to review in circuit court.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-635. - Sole source procurement.

A contract may be awarded for a supply, service or construction item without competition when the purchasing director determines that there is only one source for the required supply, service or construction item.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-636. - Competitive sealed proposals.

- (a) Conditions for use. When the purchasing director recommends to the County Administrator and it is determined that the use of competitive sealed bidding is not practicable or advantageous to the county, competitive sealed proposals may be used. Proposals shall be solicited from at least five qualified sources, when such sources are available. Public notice shall be given in the same manner as stated in Sec. 2-634(b).
- (b) Proposal opening. Proposals shall be opened and only the names of the companies disclosed. Contents of competing offerors shall not be disclosed during the process of negotiation. Proposals shall be open for public inspection after award of the contract. Confidential proprietary material marked as such in the proposal shall not be disclosed.
- (c) Discussion with responsible offerors. Discussions may be conducted for the purpose of clarification and a full understanding of the requirements. Offerors shall be accorded fair and equal treatment.
- (d) Evaluation factors. The request for proposal shall state the evaluation factors in order of importance. Price and qualifications of the offeror shall be the two most significant factors to be taken into consideration when evaluating any proposal solicited under this section. Economic impact to the county may also be a consideration.

- (e) Award. The award shall be made to the offeror whose proposal is determined to be the most advantageous to the county, taking into consideration the evaluation factors set forth in the proposal. The contract file shall contain the basis on which the award was made.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-637. - Request for qualifications for professional services.

- (a) It is the policy of the county to announce publicly all requirements for professional services, including legal and auditing, and to negotiate such contracts on the basis of demonstrated competence and qualifications at fair and reasonable prices. In the procurement of professional services, the purchasing director may, as required, request firms to submit a statement of qualifications and performance data. Professional services include, but is not limited to, architects, engineers, land surveying services, legal and auditing. The County Administrator may, as he deems appropriate, engage the services of professionals, particularly in matters that require confidentiality, or in situations where specialized expertise is required and not otherwise available with existing personnel.
- (b) Selection process. A selection committee composed of at least three members, to include the administrator or designee, the head of a using Department and one other person approved by the Administrator in need of the architect-engineer or land surveying services or other professional services shall conduct discussions with no less than three firms whenever possible regarding the proposed contract and the relative utility of alternative methods of approach for furnishing the required services and shall select from among them no less than two of the firms deemed most qualified to provide the required services. The selection of finalists shall be made in order of preference, based on criteria established and published by the selection committee, with the order of preference becoming a factor only in the event competitive bidding is prohibited by law.
- (c) Bidding and negotiation. Once the finalists are determined by the procedure set forth in preceding subsection, the purchasing director shall transmit a notice inviting bids to the finalists and the provisions of subsection 2-634(c) through (k) shall apply. In the event competitive bidding for services is prohibited by law, the remainder of this subsection shall apply. The purchasing director shall negotiate a contract with the

advice and consent of the administrator or designee, with the firm so selected to be the most qualified for architect-engineer, land surveying or other professional services at compensation which the purchasing director determines in writing to be fair and reasonable to the county. In making this decision, the purchasing director shall consider the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Should the purchasing director be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the purchasing director determines to be fair and reasonable to the county, negotiations with that firm shall be formally terminated. The purchasing director shall then undertake negotiations with other firms as selected by the committee in the order selected until an agreement is reached. At the completion of negotiations, a tabulation of fees proposed by the organizations solicited will be prepared and mailed or delivered to all interested parties.

- (d) External auditors. The procedures of this section shall be utilized to procure the services of the external, independent, certified professional accountants utilized by the county to conduct the county's annual external audit of its finances and financial records. Every independent, certified, professional accountant or accounting firm selected to perform the county's external, independent financial audit under this subsection must include, on staff, a certified fraud examiner who shall, as a part of the county's external, Independent financial audit, review for fraud, according to accepted and recognized, established accounting policies and procedures.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-638. - Purchases not exceeding ~~\$25,000.00~~ **\$50,000.00**.

Purchases where the estimated cost of the materials, equipment, or supplies is ~~\$10,000.01~~ **\$20,000.01** to ~~\$25,000.00~~ **\$50,000.00**, excluding tax, shall be made upon solicitation of written quotes from five qualified sources. Documentation of the solicitation and written responses shall be maintained in the quotation file. The purchasing director shall not be required to advertise publicly to invite quotations. The administrator may, at his discretion, require formal notice when such procedure is in the public interest.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-639. - Purchases not exceeding ~~\$10,000.00~~ **\$20,000.00**

Purchases where the estimated cost of the materials, equipment, or supplies is ~~\$2,500.01~~ **\$5,000.01** to ~~\$10,000.00~~ **\$20,000.00**, excluding tax, shall be made upon solicitation of verbal or written quotes from a minimum of three sources. Documentation of the solicitation and responses shall be maintained in the quotation file. The administrator may require that vendors submit written bids when such procedure is in the public interest.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-640. - Purchases not exceeding ~~\$2,500.00~~ **\$5,000.00**.

Any procurement of goods or services where the estimated cost is ~~\$2,500.00~~ **\$5,000.00** or less, excluding tax, may be made without competition if the purchasing director certifies that the price is deemed to be "fair and reasonable". Additional competition may be obtained whenever there is a reason to believe a quotation does not represent a fair and reasonable price.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-641. - Local preference.

The purchasing director shall grant those vendors maintaining a place of business in Anderson County a local preference of five percent. The local preference does not apply to purchases less than \$50.00 or more than \$100,000.00, excluding tax. Provided however, that if the procurement is to be made pursuant to state or federal guidelines which prohibit or restrict local preference, then in such circumstances there shall be no local preference.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-642. - Emergency purchases.

(a) By director. In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the administrator or designee shall be empowered to authorize the director or his designee to secure by open market procedure as set forth in this article, at the lowest obtainable price, any supplies or contractual services regardless of the amount of the expenditure. A full report of the circumstances of an

emergency purchase shall be filed by the director with the administrator and County Council will be notified.

- (b) By head of department. In case of actual emergency, the head of any using department or agency may purchase directly any supplies and services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health, safety or welfare of citizens.
 - (1) Recorded explanation. The head of such department or agency shall send to the purchasing director a requisition and a copy of the delivery record together with a full written report of the circumstances of the emergency. The report shall be filed with the administrator as provided in subsection (a) of this section and County Council will be notified upon request.
 - (2) Emergency procedure. The director shall prescribe by rules and regulations the procedure under which emergency purchases by heads of using agencies may be made. A copy of those procedures shall be supplied to County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-643. – State/**Federal** Purchasing.

The purchasing director may purchase any supplies, materials, equipment or contractual services through the State Procurement Office of the Division of General Services or through contract programs available through the federal General Services Administration (GSA).

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-644. - Purchase negotiations.

- (a) Generally. When lack of price or product competition renders the purposes of competitive bidding ineffective, the purchasing director may purchase supplies, materials, equipment or contractual services through negotiation with a vendor in accordance with preceding sections pertaining to limitations and approvals.

- (b) When permissible. Purchase by negotiation may be made when one of the following types of conditions exist:
 - (1) Items are obtained from only one source, and there are no acceptable equivalents;
 - (2) Bids are received, but prices are unreasonable;
 - (3) Emergencies exist. Emergencies shall be deemed to exist when a breakdown in machinery or in an essential service occurs, or when unforeseen circumstances arise, including delays by contractors, delays in transportation or unanticipated volume of work. In such cases, awards can be made without notice of intent as required in subsection (d) of this section;
 - (4) A contract already exists on a family of items that must be compatible;
 - (5) Repair and replacement parts or accessories peculiar to specialized equipment are needed;
 - (6) Identical bidding is a persistent pattern;
 - (7) Resale price maintenance is practiced by manufacturers, such as exclusive dealerships or other methods which result in only pre-established, published prices being offered;
 - (8) There are reasonable indications of collusive bidding; or
 - (9) Contracts are renewed if provided for in the original bid invitation.
- (c) Negotiated purchases. Written records shall be maintained for a period of three years of all negotiated bids. Such records shall include the name of the vendee, the amount of purchase, the equipment or supplies purchased and a justification for the negotiated bid.
- (d) Notice of intent. When the estimated cost of the supplies, materials, equipment or contractual services to be purchased by negotiation shall exceed \$25,000.00, the purchasing director shall advertise, except in the case of an emergency as defined in subsection (b) (3) of this section, a notice of intent to award a contract at least one time in a newspaper of general circulation in the county.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-645. - Exceptions.

- (a) Prohibition against subdivision. No contract or purchase may be subdivided or "stacked" to avoid the requirements of this article; provided, however, that individual items may be purchased from different bidders if:
 - (1) The requirements of preceding sections are followed with respect to the entire estimated cost of all items for which bids are invited; and
 - (2) Such practice is consistent with the terms of the notice inviting bids.
- (b) Award to other than low bidder. It is the policy of the county to award all contracts or purchases to the lowest responsive, responsible bidder, unless a combination of the following factors outweighs the single factor of cost, in which event justification to that extent will always be required to and approval received from the administrator or designee with notification to County Council:
 - (1) The ability of the bidder to perform the contract or provide the goods or services promptly or within the time specified without delay or interference;
 - (2) The quality, availability and adaptability of the goods or service for the use of the subject of the contract;
 - (3) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (4) The number and scope of conditions attached to the bid;
 - (5) The delivery and discount terms of the bids;
 - (6) The convenience of the location where the goods are to be delivered or picked up or the service is to be rendered; and
 - (7) The best interests of the citizens of the county.
- (c) Price escalation clauses. The purchasing director may enter into contracts containing price escalation clauses upon the approval of the administrator or designee, provided that such escalations may reasonably be expected not to raise the average price of goods or services higher than prices offered by other bidders.
- (d) Cancellation of contracts. The purchasing director shall have the right to cancel any purchase or contract when the vendor is found to have violated or attempted to violate the provisions of this article or in any of the following instances and County Council will be notified:

- (1) If the vendor fails to make delivery within the time specified in the contract;
- (2) If the vendor fails to provide service when service is part of the contract;
- (3) If any supplies, materials or equipment delivered under the contract are rejected and are not promptly replaced by the vendor (if there are repeated rejections, the contract may be canceled, even though the vendor agrees to replace the items promptly);
- (4) If the vendor agrees to cancellation; or
- (5) If the contract is obtained by fraud, collusion, conspiracy or by any method which is in conflict with statutory or constitutional provisions of the state.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-646. - Purchase of surplus equipment.

Purchase of surplus equipment will be by the purchasing director with the approval of the administrator and notification to County Council. The purchasing director will work with the using departments in obtaining the supplies from surplus property.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-647. - Performance bonds.

The purchasing director shall require a 100 percent performance bond and a bid bond of five percent for every construction contract involving the performance of labor expected to cost \$100,000.00 or over. Any construction contract involving the performance labor estimated to cost less than \$100,000.00 but more than \$25,000.00 shall require a 100 percent performance bond or a certified check of ten percent of the contract amount, or some other amount set by County Council. Whenever a performance bond is required, a payment bond shall likewise be required. The provisions of this section may be waived by County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-035, 10-03-2017)

Sec. 2-648. - Charges for plans and specifications.

When contractors require plans and specifications in order to submit a bid, the county may supply same and make charges for them. The county may, at its option, sell specific sheets of plans to contractors as may be required; however, specifications must be treated as a whole and charges made for them.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-649. - Retainage.

A ten percent retainage shall be retained by the county for every Construction project, **other than Road Improvements**. When 50 percent of the completion of the project has been obtained and when the County Council so approves, retainage may be reduced to zero, thus making the retainage actually five percent. Contractors may apply, in writing, to the administrator for this reduction. **A 3.5 percent retainage shall be retained by the county for all Road Improvement projects.**

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-650. - Time limits.

- (a) For every contract the county enters into, a time frame shall be established and incorporated into the contract between the county and the contractor. This time limit shall set the completion date of the work provided by the contractor. If the contractor fails to perform the stated work within the time frame, liquidated damages may be assessed by the county as indicated in the contract.
- (b) In solicitation for bids, proposals or qualifications, the county shall specify that the contractor shall provide in his bid document a time frame for completing the project. The county may, at its option, specify in its request for proposals, request for qualifications or in its invitation for bids a time frame for the completion of the work. If the contractor cannot provide the work in that time frame, he shall so indicate in his bid or his proposal, and the county shall take that into consideration. Any agreements reached between the contractor and the county shall be so stipulated in the contract agreement between the parties.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-651. - Exemptions.

At the discretion of the purchasing director, the following items are exempt from the purchasing procedures set forth above, but must still be acquired by the maximum level of competition available under the circumstances: utilities, fuel, heating fuel, asphalt, gravel and other aggregates, rentals, travel, telephone repair service, postage and post office box rentals, freight and express bills, dues and registration fees, bank services, detention center food items not otherwise covered by contract, published books, periodicals, advertising, speaker and musician fees reimbursed from admission charges, veterinary supplies, copyrighted educational materials only available from a single supplier, appraisers, aircraft repair work where the work is to be reimbursed by the aircraft owner and articles for commercial resale.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-652. - Notification to County Council.

Whenever notification to County Council is called for in this article V, notification shall be made by the administrator via his/her report given at the regularly scheduled meetings of County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-653. - Sale of real property.

All county owned real property to be sold shall first be appraised by a qualified and licensed real estate appraiser and the appraised value shall determine the course of sale which at the discretion of County Council shall be by public auction or upon receipt of sealed bids pursuant to section 2-634, or by engaging the services of a broker to sell the property. If the sale is by public auction or upon receipt of sealed bids, notice of the sale shall be published at least once per week for four weeks in a newspaper of general circulation and shall also be posted at the county purchasing office and the property site. Said notice shall be posted for a reasonable amount of time, but no less than 30 days prior to the sale, and state the terms and conditions along with the appraised value of the property to be sold. If the sale is through engaging the assistance of a broker, any proposals presented by

the broker may be accepted or rejected in the sole discretion of County Council.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013), (Ord. No. 2017-025, 6-20-2017)

Sec. 2-654. - Maintenance and use of vendor list; tracking of purchases by NIGP Code.

- (a) The purchasing director shall maintain an electronic database of all qualified and responsible vendors sorted by the National Institute of Government Purchasing Commodity/Services Code, 18th edition ("NIGP Code"). Vendors maintaining a place of business in the county shall be notified by reasonable means periodically, but at least annually, of the opportunity to apply for placement in the database.
- (b) When notification of the opportunity to provide goods or services to the county is required under this division 2, whether by sealed bid (section 2-634), requests for proposals (section 2-636) or requests for qualifications (2-637) as well as in those circumstances where verbal or written quotes are called for depending upon the threshold amount of the purchase, notice or requests for quotes, as the case may be, shall be transmitted (electronically where the vendor has provided an email address to the purchasing department) to all applicable vendors in the database maintained by the purchasing director pursuant to the preceding subsection as well as to any other vendor deemed qualified and appropriate by the purchasing director.
- (c) Beginning with purchases made after the effective date of this division, the purchasing director shall maintain an inventory by NIGP Code of all purchases made under this division which exceed ~~\$2,500.00~~ **\$5,000.00**.

(Ord. No. 2013-004, § 1(Exh. A), 3-19-2013)

Sec. 2-655. – Project Delivery Methods Authorized for Infrastructure Facilities.

- (a) The County Administrator shall have the discretion to use (i) design-bid-build, (ii) construction management at-risk, (iii) operations and maintenance, (iv) design-build, (v) design-build-operate-maintain and (vi) design-build-finance-operate-maintenance as alternatives for procurement relating to infrastructure facilities and these alternative

project delivery methods shall have the definitions as provided in Section 11-35-2910 of the South Carolina Code of Laws, 1976, as amended. In exercising such discretion, the County Administrator shall consider the method which in the Administrator's discretion is the most advantageous to the County and will result in the most timely, economical, and successful completion of the infrastructure project. The determination of the method of source selection utilized shall be stated in writing and included as part of the contract file. As a part of this determination, the County Administrator shall determine if the County should prepare a request for proposals for providing such alternative for procurement related to the infrastructure project or if the County should retain outside consulting services to prepare such request for proposals.

(b) If the County Administrator determines that the use of an alternative project delivery method identified hereon is the most advantageous means of securing the construction contracting administration, the selection of the method of construction contracting administration used by the County and set forth in §2- 655(a) shall be submitted for review to the County Council. Within 15 days after notice of such review, an interested party shall submit to the County Council written comments which set forth the position of the party with respect to the decision as to which construction contracting method to use. At the next meeting of the Council, which is at least 15 days following notice of such review, those who submitted comments may address the Council. If County Council does not reject the selection of this method, the construction contracting administration shall be secured in the manner set forth in §2-655.

(c) If the method of construction contracting administration is determined under this Section, the Chairman of County Council shall select an independent monitor from an agency of County Government who does not report directly or indirectly to the County Administrator to observe the source selection process to determine if the process was fair, open and competitive at the time of source selection. The monitor shall give a written report to the Chairman which sets forth these findings.

(d) If the competitive sealed proposal method of construction contracting administration is determined to be the most

advantageous to the County, the County shall use such method set forth in §2-636 for the proposes of procuring this project delivery method. The request for proposals for any of these services shall set forth the criteria which the County will be using to select the successful proposal.

(Ord. No. 2018-059, 12-18-2018)

Secs. 2-656—2-670. - Reserved.

ORDINANCE NO. 2021-043

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN ANDERSON COUNTY, SOUTH CAROLINA AND [PROJECT LIMESTONE] WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF TAXES, INCLUDING THE PROVISION OF CERTAIN SPECIAL SOURCE CREDITS; 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 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, pursuant to the FILOT Act, and in order to induce investment in the County, the County Council adopted on June 15, 2021 an inducement resolution (the “*Inducement Resolution*”) with respect to certain proposed investment by [PROJECT LIMESTONE], a _____ limited liability company (the “*Company*”) (which was known to the County at the time as “*Project Limestone*”), with respect to the acquisition, construction, and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a new distribution/manufacturing facility in the County (collectively, the “*Project*”); and

WHEREAS, the Company has represented that the Project will involve an investment of approximately \$80,000,000 in an industrial park, but not less than \$31,429,049 in non-exempt investment for its first two buildings within the Investment Period (as such term is defined in the hereinafter defined Fee Agreement; 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, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, pursuant to the Inducement Resolution, the County has agreed to, among other things, (a) enter into a Fee in Lieu of Tax and Special Source Credit Agreement with the Company (the “*Fee Agreement*”), whereby the County would provide therein for a payment of a fee-in-lieu-of taxes by the Company with respect to the Project, and (b) provide for certain infrastructure credits to be claimed by the Company against its payments of fees-in-lieu-of taxes with respect to the Project pursuant to Section 4-1-175 of the Multi-County Park Act; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Fee 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 are an appropriate instrument to be executed and delivered or approved by the County for the purposes intended;

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

Section 1. Based on information supplied by the Company, 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 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;

(c) 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;

(d) 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

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

Section 2. The form, terms and provisions of the Fee 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 Fee Agreement was set out in this Ordinance in its entirety. The Chairman of County Council is hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement 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 Fee Agreement to be delivered to the Company and cause a copy of the same to be delivered to the Anderson County Auditor, Assessor and Treasurer. The Fee Agreement 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, upon advice of counsel, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

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 Fee Agreement 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.

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.

ANDERSON COUNTY, SOUTH CAROLINA

By: _____
Tommy Dunn, Chairman
Anderson County Council

Attest:

By: _____
Rusty Burns, County Administrator
Anderson County, South Carolina

By: _____
Seth A. Riddley, Asst. Clerk to Council
Anderson County, South Carolina

Approved as to form:

By: _____
Leon C. Harmon, County Attorney
Anderson County, South Carolina

First Reading: _____, 2021
Second Reading: _____, 2021
Third Reading: _____, 2021
Public Hearing: _____, 2021

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.

Seth A. Riddley, Asst. Clerk to County Council,
Anderson County, South Carolina

Dated: _____, 2021

**FEE IN LIEU OF TAX AND
SPECIAL SOURCE CREDIT AGREEMENT**

Between

ANDERSON COUNTY, SOUTH CAROLINA

and

[PROJECT LIMESTONE]

Dated as of _____, 2021

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SUMMARY OF CONTENTS OF FEE IN LIEU OF TAX AGREEMENT

As permitted under Section 12-44-55(B), Code of Laws of South Carolina 1976, as amended (the “Code”), the parties have agreed to waive the requirements of Section 12-44-55 of the Code. The following is a summary of the key provisions of this Fee in Lieu of Tax and Special Source Credit Agreement. This summary is inserted for convenience only and does not constitute a part of this Fee in Lieu of Tax and Special Source Credit Agreement or a summary compliant with Section 12-44-55 of the Code.

Company Name:	[PROJECT LIMESTONE]	Project Name:	Project 20190114
Projected Investment:	\$80,000,000		
Location (street):	<i>to be provided</i>	Tax Map No.:	<i>to be provided</i>
1. FILOT			
Required Investment:	\$31,421,049 in 1 st two buildings		
Investment Period:	5 years	Ordinance No./Date:	<i>to be provided</i>
Assessment Ratio:	6%	Term (years):	
Fixed Millage:	325.7 mills	Net Present Value (if yes, discount rate):	
Clawback information:	If the Contract Minimum Investment Requirement is not made during the Standard Investment Period, the FILOT is terminated retroactively		
2. MCIP			
Included in an MCIP:	To be included in Anderson/Greenville Park (2010)		
If yes, Name & Date:			
3. SSC			
Total Amount:			
No. of Years	30 years		
Yearly Increments:	90% years 1 – 5, 80% years 6 – 10 & 35% years 11 – 30		
Clawback information:	If the Contract Minimum Investment Requirement is not made during the Standard Investment Period, the SSC is reduced to 50% for years 6 - 10; if the Contract Minimum Investment Requirement is made by the 7 th year, the SSC will return to 80% for years 8-10.		
4. Other information	In the event \$31,421,049 has been invested within the Standard Investment Period, the Standard Investment Period shall be extended an additional 5 years.		

FEE IN LIEU OF TAX AGREEMENT

THIS FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT (the “*Fee Agreement*”) 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 (the “*State*”), acting by and through the Anderson County Council (the “*County Council*”) as the governing body of the County, and **[PROJECT LIMESTONE]**, a limited liability company organized and existing under the laws of the State of _____ (the “*Company*”).

RECITALS

1. Title 12, Chapter 44 (the “*FILOT Act*”), Code of Laws of South Carolina, 1976, as amended (the “*Code*”), authorizes the County to (a) induce industries to locate in the State; (b) encourage industries now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (c) enter into a fee agreement with entities meeting the requirements of the FILOT Act, which identifies certain property of such entities as economic development property and provides for the payment of a fee in lieu of tax with respect to such property.

2. Sections 4-1-17 and 12-44-70 of the Code authorize the County to provide special source revenue credit (“*Special Source Revenue Credit*”) financing secured by and payable solely from revenues of the County derived from payments in lieu of taxes for the purposes set forth in Section 4-29-68 of the Code, namely: the defraying of 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 but not limited to machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County (collectively, “*Infrastructure*”).

3. The Company (as a Sponsor, within the meaning of the FILOT Act) desires to provide for the acquisition and construction of the Project (as defined herein) to constitute a new distribution/manufacturing facility in the County.

4. Based on information supplied by the Company, the County Council has evaluated the Project based on relevant criteria that include, but are not limited to, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created or maintained, and the anticipated costs and benefits to the County. Pursuant to Section 12-44-40(H)(1) of the FILOT Act, the County finds that: (a) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project will give rise to no pecuniary liability of the County or any incorporated municipality therein and to no charge against their general credit or taxing powers; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

5. The Project is located, or if not so located as of the date of this Fee Agreement the County intends to use its best efforts to so locate the Project, in a joint county industrial or business park created with an adjoining county in the State pursuant to agreement entered into pursuant to Section 4-1-170 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution.

6. By enactment of an Ordinance on _____, 2021, the County Council has authorized the County to enter into this Fee Agreement with the Company which classifies the Project as Economic Development Property under the FILOT Act and provides for the payment of fees in lieu of taxes and the provision of Special Source Credits to reimburse the Company for payment of the cost of certain Infrastructure in connection with the Project, all as further described herein.

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

ARTICLE I

DEFINITIONS

Section 1.01 Definitions

The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

“Administration Expenses” shall mean the reasonable and necessary expenses incurred by the County with respect to this Fee 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.

“Affiliate” shall mean any corporation, limited liability company, partnership or other entity which owns all or part of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or which is owned in whole or in part by the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or by any partner, shareholder or owner of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as well as any subsidiary, affiliate, individual or entity who bears a relationship to the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

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

“Commencement Date” shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date shall not be later than the last day of the property tax year which is three (3) years from the year in which the County and the Company enter into this Fee Agreement.

“Company” shall mean [PROJECT LIMESTONE], a _____ limited liability company, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Company.

“Condemnation Event” shall mean any act of taking by a public or quasi-public authority through condemnation, reverse condemnation or eminent domain.

“Contract Minimum Investment Requirement” shall mean investment by the Company, any Affiliates and any Sponsor Affiliates on the Project Limestone Industrial Park Land and the first two buildings on the Project Limestone Industrial Park Land of at least \$31,429,049 in Economic Development Property subject (non-exempt) to *ad valorem* taxation (in the absence of this Fee Agreement).

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

“County Administrator” shall mean the Anderson County Administrator, or the person holding any successor office of the County.

“County Assessor” shall mean the Anderson County Assessor, or the person holding any successor office of the County.

“County Auditor” shall mean the Anderson County Auditor, or the person holding any successor office of the County.

“County Council” shall mean Anderson County Council, the governing body of the County.

“County Treasurer” shall mean the Anderson County Treasurer, or the person holding any successor office of the County.

“Defaulting Entity” shall have the meaning set forth for such term in Section 6.02(a) hereof.

“Deficiency Amount” shall have the meaning set forth for such term in Section 4.03(a) hereof.

“Department” shall mean the South Carolina Department of Revenue.

“Diminution in Value” in respect of the Project shall mean any reduction in the value, using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.01 of this Fee Agreement, of the items which constitute a part of the Project and which are subject to FILOT payments which may be caused by the Company’s or any Sponsor Affiliate’s removal and/or disposal of equipment pursuant to Section 4.04 hereof, or by its election to remove components of the Project as a result of any damage or destruction or any Condemnation Event with respect thereto.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the FILOT Act, selected and identified by the Company or any Sponsor Affiliate in its annual filing of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

“Equipment” shall mean machinery, equipment, furniture, office equipment, and other tangible personal property, together with any and all additions, accessions, replacements, and substitutions thereto or therefor.

“Event of Default” shall mean any event of default specified in Section 6.01 hereof.

“Exemption Period” shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable portion of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year’s investment made during the Investment Period.

“Extended Investment Period” shall mean the period ending five (5) years after the end of the Standard Investment Period.

“Fee Agreement” shall mean this Fee in Lieu of Tax and Special Source Credit Agreement.

“FILOT” or ***“FILOT Payments”*** shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

“FILOT Act” shall mean Title 12, Chapter 44, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“FILOT Act Minimum Investment Requirement” shall mean, with respect to the Project, an investment of at least \$2,500,000 by the Company, or of at least \$5,000,000 by the Company and any Sponsor Affiliates in the aggregate, in Economic Development Property.

“Improvements” shall mean improvements to the Land, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor.

“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.

“Investment Period” shall mean, and shall be equal to, the Standard Investment Period plus the Extended Investment Period, if applicable.

“Standard Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years after the Commencement Date.

“Land” means the land upon which the Project will be located, as described in Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with Section 3.01(c) hereof.

“MCIP Act” shall mean Title 4, Chapter 1, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“MCIP Agreement” shall mean the Agreement for the Development of a Joint County Industrial and Business Park (2010 Park) dated as of December 1, 2010, as amended, between the County and Greenville County, South Carolina, as the same may be further 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 Special Source Credits to the Company hereunder.

“MCIP” shall mean (i) the joint county industrial park established pursuant to the terms of the MCIP 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 MCIP Act, or any successor provision, with respect to the Project.

“Phase” or ***“Phases”*** in respect of the Project shall mean that the components of the Project are placed in service during more than one year during the Investment Period, and the word “Phase” shall therefore refer to the applicable portion of the Project placed in service in a given year during the Investment Period.

“Project” shall mean the Land and all the Equipment and Improvements that the Company determines to be necessary, suitable or useful for the purposes described in Section 2.02(b) hereof, to the extent determined by the Company and any Sponsor Affiliate to be a part of the Project and placed in service during the Investment Period, and any Replacement Property. Notwithstanding anything in this Fee Agreement to the contrary, the Project shall not include property which will not qualify for the FILOT pursuant to Section 12-44-110 of the FILOT Act, including without limitation property which has been subject to *ad valorem* taxation in the State prior to commencement of the Investment Period; provided, however, the Project may include (a) modifications which constitute an expansion of the real property portion of the Project and (b) the property allowed pursuant to Section 12-44-110(2) of the FILOT Act.

“Project Limestone Industrial Park Land” shall mean all of the Land as described in Exhibit A-1 attached hereto, including any such Land that may be released from this Agreement in accordance with Section 3.01(c) and submitted to a separate fee in lieu of tax agreement.

“Removed Components” shall mean components of the Project or portions thereof which the Company or any Sponsor Affiliate in its sole discretion, elects to remove from the Project pursuant to Section 4.04 hereof or as a result of any Condemnation Event.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment or any Improvement previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement to the fullest extent that the FILOT Act permits.

“Special Source Credits” shall mean the annual special source credits provided to the Company pursuant to Section 4.02 hereof.

“Sponsor Affiliate” shall mean an entity that joins with the Company and that participates in the investment in, or financing of, the Project and which meets the requirements under the FILOT Act to be entitled to the benefits of this Fee Agreement with respect to its participation in the Project, all as set forth in Section 5.13 hereof.

“Standard Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years after the Commencement Date.

“State” shall mean the State of South Carolina.

“Termination Date” shall mean, with respect to each Phase of the Project, the end of the last day of the property tax year which is the 29th year following the first property tax year in which such Phase of the Project is placed in service; provided, that the intention of the parties is that the Company will make at least 30 annual FILOT payments under Article IV hereof with respect to each Phase of the Project; and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date shall mean the date of such termination.

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

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

Section 1.02 Project-Related Investments

The term “investment” or “invest” as used herein shall include not only investments made by the Company and any Sponsor Affiliates, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Company or any Sponsor Affiliate with respect to the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT payments by the Company.

[End of Article I]

REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.01 Representations, Warranties, and Agreements of the County

The County hereby represents, warrants, and agrees as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Company, the Project constitutes a “project” within the meaning of the FILOT Act.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the FILOT Act and that the Company selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in the State.

(d) The millage rate set forth in Step 3 of Section 4.01(a) hereof is 325.7 mills, which is the millage rate in effect with respect to the location of the proposed Project as of June 30, 2021, as permitted under Section 12-44-50(A)(1)(d) of the FILOT Act.

(e) The County will use its reasonable best efforts to cause the Project to be located in a MCIP for a term extending at least until the end of the period of FILOT Payments against which a Special Source Credit is to be provided under this Fee Agreement.

(f) The County agrees to waive up to \$300,000 of the cumulative sewer impact fees and up to \$300,000 of the cumulative building and code fees incurred in the Project Limestone Industrial Park.

Section 2.02 Representations, Warranties, and Agreements of the Company

The Company hereby represents, warrants, and agrees as follows:

(a) The Company is organized and in good standing under the laws of the State of _____, is duly authorized to transact business in the State, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to operate the Project as a “project” within the meaning of the FILOT Act as in effect on the date hereof. The Company intends to operate the Project for the purpose of a distribution/manufacturing facility, and for such other purposes that the FILOT Act permits as the Company may deem appropriate.

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

(d) The Company, together with any Affiliates and any Sponsor Affiliates, will use commercially reasonable efforts to meet, or cause to be met, the Contract Minimum Investment Requirement within the Standard Investment Period.

[End of Article II]

COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.01 The Project

(a) The Company intends and expects, together with any Affiliate and any Sponsor Affiliate, to (i) construct and acquire the Project, and (ii) meet the Contract Minimum Investment Requirement within the Standard Investment Period. The Company anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2022. In the event, the Contract Minimum Investment Requirement has been met within the Standard Investment Period, the Investment Period shall be extended to include the Extended Investment Period.

(b) Pursuant to the FILOT Act and subject to Section 4.03 hereof, the Company and the County hereby agree that the Company and any Sponsor Affiliates shall identify annually those assets which are eligible for FILOT payments under the FILOT Act and which the Company or any Sponsor Affiliate selects for such treatment by listing such assets in its annual PT-300S form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary notwithstanding, the Company and any Sponsor Affiliates shall not be obligated to complete the acquisition of the Project. However, if the Company, together with any Sponsor Affiliates, does not meet the Contract Minimum Investment Requirement within the Standard Investment Period, the provisions of Section 4.03 hereof shall control.

(c) The Company may add to the Land such real property, located in the same taxing District in the County as the original Land, as the Company, in its discretion, deems useful or desirable and the Company may release any such portion of the Land, as the Company, in its discretion, deems useful or desirable. In such event, the Company, at its expense, shall deliver an appropriately revised Exhibit A and Exhibit A-1 to this Fee Agreement, in form reasonably acceptable to the County. The County's acceptance of such revised Exhibit A and Exhibit A-1 shall be established by a resolution of County Council.

Section 3.02 Diligent Completion

The Company agrees to use its reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Standard Investment Period.

Section 3.03 Filings and Reports

(a) Each year during the term of the Fee Agreement, the Company and any Sponsor Affiliates shall deliver to the County, the County Auditor, the County Assessor and the County Treasurer a copy of their most recent annual filings with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department.

(b) The Company shall cause a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor, and to their counterparts in the partner county to the MCIP Agreement, the County Administrator and the Department within thirty (30) days after the date of execution and delivery of this Fee Agreement by all parties hereto.

(c) Each of the Company and any Sponsor Affiliates agree to maintain complete books and records accounting for the acquisition, financing, construction, and operation of the Project. Such books and records shall (i) permit ready identification of the various Phases and components thereof; (ii) confirm the dates on which each Phase was placed in service; and (iii) include copies of all filings made by the

Company and any such Sponsor Affiliates in accordance with Section 3.03(a) or (b) above with respect to property placed in service as part of the Project.

[End of Article III]

FILOT PAYMENTS

Section 4.01 FILOT Payments

(a) Pursuant to Section 12-44-50 of the FILOT Act, the Company and any Sponsor Affiliates, as applicable, are required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the FILOT Act, the County and the Company have negotiated the amount of the FILOT Payments in accordance therewith. The Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual FILOT Payments shall be in accordance with the following procedure (subject, in any event, to the procedures required by the FILOT Act):

Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using 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 FILOT Act defines such term, that the Company and any Sponsor Affiliates 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 fair market value of the real property for the first year of the Exemption Period remains the fair market value of the real property and Improvements for the life of the Exemption Period. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company and any Sponsor Affiliates if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the FILOT Act specifically disallows.

Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 29 years thereafter or such longer period of years in which the FILOT Act permits the Company and any Sponsor Affiliates to make annual FILOT payments.

Step 3: Use a millage rate of 325.7 mills during the Exemption Period against the taxable value to determine the amount of the FILOT Payments due during the Exemption Period on the applicable payment dates.

(b) In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Act and/or the herein-described FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof (without increasing the amount of incentives being afforded herein) and so as to afford the Company and any Sponsor Affiliates with the benefits to be derived herefrom, the intention of the County being to offer the Company and such Sponsor Affiliates a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Company and any Sponsor Affiliates shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company and such Sponsor Affiliates. Any amount determined to be due and owing to the County from the Company and such Sponsor Affiliates, with respect to a year or years for which the Company or such Sponsor Affiliates previously remitted FILOT Payments to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company or such Sponsor Affiliates would be entitled if the Economic Development Property was not and had not been Economic Development Property under the Act; and (ii) be reduced by the total amount of FILOT Payments the Company or such Sponsor Affiliates had made with respect to the Project pursuant to the terms hereof.

Section 4.02 Special Source Credits

(a) In accordance with and pursuant to Section 12-44-70 of the FILOT Act and Section 4-1-175 of the MCIP Act, in order to reimburse the Company for qualifying capital expenditures incurred for costs of the Infrastructure during the Investment Period, the Company shall be entitled to receive, and the County agrees to provide, annual Special Source Credits against the Company's FILOT Payments for the first five (5) consecutive years (years 1 through 5) in an amount equal to ninety percent (90%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Standard Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement; the second five (5) consecutive years (years 6 through 10) in an amount equal to eighty percent (80%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Standard Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement; and thereafter, for a period of twenty (20) consecutive years (years 11 through 30) in an amount equal to thirty-five percent (35%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement.

(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 a Special Source Credit is taken.

(c) In no event shall the aggregate amount of all Special Source Credits claimed by the Company exceed the amount expended 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 C.

(d) As provided in Section 4-29-68 of the Code, to the extent any Special Source Credit is taken against fee in lieu of tax payment on personal property, and the personal property is removed from the Project at any time during the term of this 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 shall be due for the two (2) years immediately following such removal.

(e) Each annual Special Source Credit shall be reflected by the County Auditor or other authorized County official or representative on each bill for FILOT Payments sent to the Company by the County for each applicable property tax year, by reducing such FILOT Payments otherwise due by the amount of the Special Source Credit to be provided to the Company for such property tax year.

(f) The Special Source Credits are payable solely from the FILOT Payments, are not secured by, or in any way entitled to, a pledge of the full faith, credit or taxing power of the County, are not an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation, are payable solely from a special source that does not include revenues from any tax or license, and are not a pecuniary liability of the County or a charge against the general credit or taxing power of the County.

(g) All fee-in-lieu of *ad valorem* taxes pursuant to the agreement received by the County for MCIP premises located in the County attributable to current MCIP property shall be distributed in accordance with Section 3 of Ordinance 2010-026 and Paragraph 7 of the MCIP Agreement. All fee-in lieu of *ad valorem* taxes pursuant to the agreement received by the County for MCIP premises located in the County attributable to MCIP property added on and after November 16, 2020 shall be distributed, net of special source credits provided by the County pursuant to Section 4-1-175 ("Net Park Fees") as follows: First, 15% of Net Park Fees shall be deposited to Bond Fund created by Ordinance 2018-042 and used as required or permitted thereby, Second, 35% of Net Park Fees, and any surplus money under Ordinance 2018-042, shall be deposited to the Capital Renewal and Replacement Fund of the County, and Third, remaining Net Park Fees shall be disbursed to each of the taxing entities in the County which levy an old *ad valorem* property tax in any of the areas comprising the County's portion of the MCIP in the same percentage as is equal to that taxing entity's percentage of the millage rate (and proportion of operating and debt service millage) being levied in the current tax year for property tax purposes.

Section 4.03 Failure to Achieve Minimum Investment Requirement

(a) Should the Contract Minimum Investment Requirement not be met by the end of the Standard Investment Period, any subsequent Special Source Credits shall be reduced to fifty percent (50%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Investment Period) for years six (6) through ten (10), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement; except, however, if the Contract Minimum Investment Requirement is met by the end of the seventh (7th) tax year following the Commencement Date, then the Special Source Credits going forward shall return to the original schedule. Any portion of Special Source Credits lost because of a failure to meet the Contract Minimum Investment Requirement by the end of the Standard Investment Period shall not be recoverable by the Company or its Sponsor Affiliates.

(b) As a condition to the FILOT benefit provided herein, the Company agrees to provide the County Administrator, the County Assessor, the County Auditor and the County Treasurer with an annual certification as to investment in the Project. Such certification shall be in substantially the form attached hereto as Exhibit B, and shall be due no later than the May 1 following the immediately preceding December 31 of each year during the Investment Period.

Section 4.04 Removal of Equipment

Subject, always, to the other terms and provisions of this Fee Agreement, the Company and any Sponsor Affiliates shall be entitled to remove and dispose of components of the Project from the Project in its sole discretion with the result that said components shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement. Economic Development Property is disposed of only when it is scrapped or sold or

removed from the Project. If it is removed from the Project, it is subject to *ad valorem* property taxes to the extent the Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.05 FILOT Payments on Replacement Property

If the Company or any Sponsor Affiliate elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Company or any Sponsor Affiliate otherwise utilizes Replacement Property, then, pursuant and subject to the provisions of Section 12-44-60 of the FILOT Act, the Company or such Sponsor Affiliate shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest Economic Development Property subject to the Fee, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development Property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is entitled to treatment under the Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the FILOT shall be recorded using its income tax basis, and the calculation of the FILOT shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the FILOT.

Section 4.06 Reductions in Payment of Taxes Upon Diminution in Value; Investment Maintenance Requirement

In the event of a Diminution in Value of the Economic Development Property, the FILOT payments with regard to the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property as determined pursuant to Step 1 of Section 4.01(a) hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project remaining in the County based on the original income tax basis thereof (that is, without regard to depreciation), is less than the FILOT Act Minimum Investment Requirement, then beginning with the first payment thereafter due hereunder and continuing until the Termination Date, the Project shall no longer be entitled to the incentive provided in Section 4.01, and the Company and any Sponsor Affiliate shall therefore commence to pay regular *ad valorem* taxes thereon, calculated as set forth in Section 4.01(b) hereof.

[End of Article IV]

PARTICULAR COVENANTS AND AGREEMENTS

Section 5.01 Cessation of Operations

Notwithstanding any other provision of this Fee Agreement, each of the Company and any Sponsor Affiliates acknowledges and agrees that County's obligation to provide the FILOT incentive ends, and this Fee Agreement is terminated, if the Company ceases operations at the Project. For purposes of this Section, "ceases operations" means closure of the facility or the cessation of production and shipment of products to customers for a continuous period of twenty-four (24) months. The provisions of Section 4.03 hereof relating to retroactive payments shall apply, if applicable, if this Fee Agreement is terminated in accordance with this Section prior to the end of the Standard Investment Period. Each of the Company and any Sponsor Affiliates agrees that if this Fee Agreement is terminated pursuant to this subsection, that under no circumstance shall the County be required to refund or pay any monies to the Company or any Sponsor Affiliates.

Section 5.02 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, and shall be subject to the provisions of Section 5.03 hereof.

Section 5.03 Confidentiality

The County acknowledges and understands that the Company and any Sponsor Affiliates may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (herein "Confidential Information"). In this regard, the Company and any Sponsor Affiliates may clearly label any Confidential Information delivered to the County "Confidential Information." The County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall disclose or otherwise divulge any such clearly labeled Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law. Each of the Company and any Sponsor Affiliates acknowledge that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. In the event that the County is required to disclose any Confidential Information obtained from the Company or any Sponsor Affiliates to any third party, the County agrees to provide the Company and such Sponsor Affiliates with as much advance notice as is reasonably possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Company and such Sponsor Affiliates to obtain judicial or other relief from such disclosure requirement.

Section 5.04 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 (it being intended herein that any obligations of the County with respect to the Special Source Credits shall be payable only from FILOT payments received from or payable

by the Company or any Sponsor Affiliates); provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

Section 5.05 Mergers, Reorganizations and Equity Transfers

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

Section 5.06 Indemnification Covenants

(a) Notwithstanding any other provisions in this Fee Agreement or in any other agreements with the County, the Company agrees to indemnify, defend and save the County, its County Council members, elected officials, officers, 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 or the Land by the Company or any Sponsor Affiliate, their 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 from (i) entering into and performing its obligations under this Fee Agreement, (ii) any condition of the Project, (iii) any breach or default on the part of the Company or any Sponsor Affiliate in the performance of any of its obligations under this Fee Agreement, (iv) any act of negligence of the Company or any Sponsor Affiliate or its agents, contractors, servants, employees or licensees, (v) any act of negligence of any assignee or lessee of the Company or any Sponsor Affiliate, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Company or any Sponsor Affiliate, or (vi) any environmental violation, condition, or effect with respect to the Project. 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 Fee Agreement, or the undertakings required of the County hereunder, by reason of the granting of the FILOT, by reason of the execution of this Fee Agreement, by the reason of the performance of any act requested of it by the Company or any Sponsor Affiliate, or by reason of the County’s relationship to the Project or by the operation of the Project by the Company or any Sponsor Affiliate, 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 attributable to (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Fee Agreement by the County.

(c) Notwithstanding anything in this Fee 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 any Sponsor Affiliate, shall survive any termination of this Fee Agreement.

Section 5.07 Qualification in State

Each of the Company and any Sponsor Affiliates warrant 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 5.08 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 elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any elected official, officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any elected official, 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 5.09 Assignment, Leases or Transfers

The County agrees that the Company and any Sponsor Affiliates may at any time (a) transfer all or any of their rights and interests under this Fee Agreement or with respect to all or any part of the Project, or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing or other entity with respect to this Fee Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or any Sponsor Affiliate or operates such assets for the Company or any Sponsor Affiliate or is leasing the portion of the Project in question from the Company or any Sponsor Affiliate. In order to preserve the FILOT benefit afforded hereunder with respect to any portion of the Project so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to an Affiliate of the Company or of any Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company and any Sponsor Affiliates, as applicable, shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County in its sole discretion and as evidenced by resolution passed by the County Council; (ii) except when a financing entity which is the income tax owner of all or part of the Project is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or any Sponsor Affiliate, as the case may be, hereunder, or when the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Company and any Sponsor Affiliates hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make FILOT Payments hereunder, the transferee shall assume the then current basis of, as the case may be, the Company or any Sponsor Affiliates (or prior transferee) in the portion of the Project transferred; (iv)

the Company or applicable Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department a true and complete copy of any such transfer agreement; and (v) the Company, the Sponsor Affiliates and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent when required under this Section, and at the expense of the Company or any Sponsor Affiliate, as the case may be, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or such Sponsor Affiliate under this Fee Agreement and/or any release of the Company or such Sponsor Affiliate pursuant to this Section.

Each of the Company and any Sponsor Affiliates acknowledges that such a transfer of an interest under this Fee Agreement or in the Project may cause all or part of the Project to become ineligible for the FILOT benefit afforded hereunder or result in penalties under the FILOT Act absent compliance by the Company and any Sponsor Affiliates with the Transfer Provisions.

Section 5.10 Administration Expenses

The Company agrees to pay any Administration Expenses to the County when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is forty-five (45) days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's or Indemnified Party's right to receive such payment, specifying the nature of such expense and requesting payment of same.

Section 5.11 Priority Lien Status

The County's right to receive FILOT payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the FILOT Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code.

Section 5.12 Interest; Penalties

In the event the Company or any Sponsor Affiliate should fail to make any of the payments to the County required under this Fee Agreement, then the item or installment so in default shall continue as an obligation of the Company or such Sponsor Affiliate until the Company or such Sponsor Affiliate shall have fully paid the amount, and the Company and any Sponsor Affiliates agree, as applicable, to pay the same with interest thereon at a rate, unless expressly provided otherwise herein and in the case of FILOT payments, of 5% per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT payments, at the rate for non-payment of *ad valorem* taxes under State law and subject to the penalties the law provides until payment.

Section 5.13 Sponsor Affiliates

The Company may designate from time to time any Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(20) and 12-44-130 of the FILOT Act, which Sponsor Affiliates shall join with the Company and make investments with respect to the Project, or participate in the financing of such investments, and shall agree to be bound by the terms and provisions of this Fee Agreement pursuant to the terms of a written joinder agreement with the County and the Company, in form reasonably acceptable to the County. The Company shall provide the County and the Department with written notice of any Sponsor Affiliate designated pursuant to this Section within ninety (90) days after the end of the calendar year during

which any such Sponsor Affiliate has placed in service any portion of the Project, in accordance with Section 12-44-130(B) of the FILOT Act.

[End of Article V]

DEFAULT

Section 6.01 Events of Default

The following shall be “Events of Default” under this Fee Agreement, and the term “Event of Default” shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company or any Sponsor Affiliate to make the FILOT Payments described in Section 4.01 hereof, or any other amounts payable to the County under this Fee Agreement when due, which failure shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; provided, however, that the Company and any Sponsor Affiliates shall be entitled to all redemption rights granted by applicable statutes; or

(b) A representation or warranty made by the Company or any Sponsor Affiliate hereunder which is deemed materially incorrect when deemed made; or

(c) Failure by the Company or any Sponsor Affiliate to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of thirty (30) days after written notice from the County to the Company and such Sponsor Affiliate specifying such failure and requesting that it be remedied, unless the Company or such Sponsor Affiliate shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Company or such Sponsor Affiliate is diligently pursuing corrective action; or

(d) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of thirty (30) days after written notice from the Company to the County and any Sponsor Affiliates specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 6.02 Remedies Upon Default

(a) Whenever any Event of Default by the Company or any Sponsor Affiliate (the “*Defaulting Entity*”) shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions as to the Defaulting Entity, only:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder.

In no event shall the Company or any Sponsor Affiliate be liable to the County or otherwise for monetary damages resulting from the Company’s (together with any Sponsor Affiliates) failure to meet the FILOT Act Minimum Investment Requirement or the Contract Minimum Investment Requirement other than as expressly set forth in this Fee Agreement.

In addition to all other remedies provided herein, the failure to make FILOT payments shall give rise to a lien for tax purposes as provided in Section 12-44-90 of the FILOT Act. In this regard, and

notwithstanding anything in this Fee Agreement to the contrary, the County may exercise the remedies that general law (including Title 12, Chapter 49 of the Code) provides with regard to the enforced collection of *ad valorem* taxes to collect any FILOT payments due hereunder.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Company and any Sponsor Affiliate may take one or more of the following actions:

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

Section 6.03 Reimbursement of Legal Fees and Expenses and Other Expenses

Upon the occurrence of an Event of Default hereunder by the Company or any Sponsor Affiliate, should the County be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 6.04 No Waiver

No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

[End of Article VI]

MISCELLANEOUS

Section 7.01 Notices

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

If to the Company:

[PROJECT LIMESTONE]

With a copy to:

James K. Price
Nexsen Pruet, LLC
55 E. Camperdown Way, Suite 400
Greenville, South Carolina 29601

If to the County:

Anderson County
Attn: Rusty Burns, County Administrator
P.O. Box 8002
Anderson, South Carolina 29622-8002

With a copy to:

Anderson County Attorney
P.O. Box 8002
Anderson, South Carolina 29622-8002

Section 7.02 Binding Effect

This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Company and any Sponsor Affiliates, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 7.03 Counterparts

This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 7.04 Governing Law

This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 7.05 Headings

The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 7.06 Amendments

The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 7.07 Further Assurance

From time to time, and at the expense of the Company and any Sponsor Affiliates, the County agrees to execute and deliver to the Company and any such Sponsor Affiliates such additional instruments as the Company or such Sponsor Affiliates may reasonably request and as are authorized by law and reasonably within the purposes and scope of the FILOT Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 7.08 Invalidity; Change in Laws

In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the FILOT Act, to the extent not inconsistent with any of the explicit terms hereof. If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Company and any Sponsor Affiliates with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company and any Sponsor Affiliates the strongest inducement possible, within the provisions of the FILOT Act, to locate the Project in the County. In case a change in the FILOT Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Company and any Sponsor Affiliates and the FILOT incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, and, if the County Council so decides, to provide the Company and any Sponsor Affiliates with the benefits of such change in the FILOT Act or South Carolina laws.

Section 7.09 Termination by Company

The Company is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with thirty (30) days' written notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto

(including without limitation any amounts owed with respect to Section 4.03 hereof); and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to *ad valorem* taxation or such other taxation or fee in lieu of taxation that would apply absent this Agreement. The Company's obligation to make FILOT Payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 7.10 Entire Understanding

This Fee 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 Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 7.11 Waiver

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

Section 7.12 Business Day

In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or 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.

Section 7.13 Facsimile/Scanned Signature

The Parties agree that use of a fax or scanned signature and the signatures, initials, and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the Parties as if the original signature, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

[End of Article VII]

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

ANDERSON COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Tommy Dunn, Chairman of County Council,
Anderson County, South Carolina

ATTEST:

Seth A. Riddley, Clerk to County Council,
Anderson County, South Carolina

[Signature Page 1 to Fee in Lieu of Tax and Special Source Credit Agreement]

company

[PROJECT LIMESTONE]
a _____ limited liability

By: _____
Name: _____
Its: _____

[Signature Page 2 to Fee in Lieu of Tax and Special Source Credit Agreement]

EXHIBIT A

**LAND
LEGAL DESCRIPTION**

[Legal description to be added]

[Tax Map No. to be added]

EXHIBIT A-1

**PROJECT LIMESTONE INDUSTRIAL PARK
LEGAL DESCRIPTION**

[Legal description to be added]

[Tax Map No. to be added]

EXHIBIT B

INVESTMENT CERTIFICATION

I _____, the _____ of [PROJECT LIMESTONE] (the “*Company*”), do hereby certify in connection with Section 4.03 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 2020 between Anderson County, South Carolina and the Company (the “*Agreement*”), as follows:

(1) The total investment made by the Company and any Sponsor Affiliates in the Project during the calendar year ending December 31, 20__ was \$_____.

(2) The cumulative total investment made by the Company and any Sponsor Affiliates in the Project from the period beginning _____, 20__ (that is, the beginning date of the Investment Period) and ending December 31, 20__, is \$_____.

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__.

Name: _____
Its: _____

EXHIBIT C

INFRASTRUCTURE INVESTMENT CERTIFICATION

I _____, the _____ of [PROJECT LIMESTONE] (the “*Company*”), do hereby certify in connection with Section 4.02 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 2020 between Anderson County, South Carolina and the Company (the “*Agreement*”), as follows:

(1) As of the date hereof, the aggregate amount of Special Source Credits previously received by the Company and any Sponsor Affiliates is \$_____.

(2) As of December 31, 20__, the aggregate amount of investment in costs of Infrastructure incurred by the Company and any Sponsor Affiliates during the Investment Period is not less than \$_____.

(3) Of the total amount set forth in (2) above, \$_____ pertains to the investment in personal property, including machinery and equipment, at the Project. The applicable personal property, and associated expenditures, are listed below:

Personal Property Description

Investment Amount

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__.

Name: _____
Its: _____

ORDINANCE NO. 2021-044

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN ANDERSON COUNTY, SOUTH CAROLINA AND DECENNIAL SC, LLC WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF TAXES, INCLUDING THE PROVISION OF CERTAIN SPECIAL SOURCE CREDITS; 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 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, pursuant to the FILOT Act, and in order to induce investment in the County, the County Council adopted on June 14, 2021 an inducement resolution (the “*Inducement Resolution*”) with respect to certain proposed investment by Decennial SC, LLC, a Delaware limited liability company (the “*Company*”) (which was known to the County at the time as “*Project Flay*”), with respect to the acquisition, construction, and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a new distribution/manufacturing facility in the County (collectively, the “*Project*”); and

WHEREAS, the Company has represented that the Project will involve an investment of approximately \$29,621,000 in the County and the expected creation by the Company’s tenant of 41 new, full-time jobs at the Project, all the Investment Period (as such term is defined in the hereinafter defined Fee Agreement; 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, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, pursuant to the Inducement Agreement, the County has agreed to, among other things, (a) enter into a Fee in Lieu of Tax and Special Source Credit Agreement with the Company (the “*Fee Agreement*”), whereby the County would provide therein for a payment of a fee-in-lieu-of taxes by the Company with respect to the Project, and (b) provide for certain infrastructure credits to be claimed by the Company against its payments of fees-in-lieu-of taxes with respect to the Project pursuant to Section 4-1-175 of the Multi-County Park Act; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Fee 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 are an appropriate instrument to be executed and delivered or approved by the County for the purposes intended;

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

Section 1. Based on information supplied by the Company, 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 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;

(c) 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;

(d) 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

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

Section 2. The form, terms and provisions of the Fee 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 Fee Agreement was set out in this Ordinance in its entirety. The Chairman of County Council is hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement 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 Fee Agreement to be delivered to the Company and cause a copy of the same to be delivered to the Anderson County Auditor, Assessor and Treasurer. The Fee Agreement 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, upon advice of counsel, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

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 Fee Agreement 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.

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 3rd day of August, 2021.

ANDERSON COUNTY, SOUTH CAROLINA

By: _____
Tommy Dunn, Chairman
Anderson County Council

Attest:

By: _____
Rusty Burns, County Administrator
Anderson County, South Carolina

By: _____
Lacey A. Croegaert, Clerk to Council
Anderson County, South Carolina

Approved as to form:

By: _____
Leon C. Harmon, County Attorney
Anderson County, South Carolina

First Reading: June 14, 2021
Second Reading: July 20, 2021
Third Reading: August 3, 2021
Public Hearing: August 3, 2021

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 June 14, 2021, July 20, 2021, and August 3, 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 A. Croegaert, Clerk to County Council,
Anderson County, South Carolina

Dated: August 3, 2021

**FEE IN LIEU OF TAX AND
SPECIAL SOURCE CREDIT AGREEMENT**

Between

ANDERSON COUNTY, SOUTH CAROLINA

and

DECENNIAL SC, LLC

Dated as of August 3, 2021

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SUMMARY OF CONTENTS OF FEE IN LIEU OF TAX AGREEMENT

As permitted under Section 12-44-55(B), Code of Laws of South Carolina 1976, as amended (the “Code”), the parties have agreed to waive the requirements of Section 12-44-55 of the Code. The following is a summary of the key provisions of this Fee in Lieu of Tax and Special Source Credit Agreement. This summary is inserted for convenience only and does not constitute a part of this Fee in Lieu of Tax and Special Source Credit Agreement or a summary compliant with Section 12-44-55 of the Code.

Company Name:	[PROJECT FLAY]	Project Name:	Project Flay
Projected Investment:	\$29,621,000	Projected Jobs:	41
Location (street):	<i>to be provided</i>	Tax Map No.:	099-00-02-006 and 099-01-03-001
1. FILOT			
Required Investment:	\$29,621,000		
Investment Period:	5 years	Ordinance No./Date:	2021-044/Aug. 3, 2021
Assessment Ratio:	6%	Term (years):	
Fixed Millage:	333.5 mills	Net Present Value (if yes, discount rate):	
Clawback information:	If the Contract Minimum Investment Requirement is not made during the Standard Investment Period, the FILOT is terminated retroactively		
2. MCIP			
Included in an MCIP:	To be included in Anderson/Greenville Park (2010)		
If yes, Name & Date:			
3. SSC			
Total Amount:			
No. of Years	30 years		
Yearly Increments:	95% years 1 - 30		
Clawback information:	If the Contract Minimum Investment Requirement and the Contract Minimum Jobs Creation Requirement are both not made during the Standard Investment Period, the SSC is reduced to 85%; if the Contract Minimum Investment Requirement and the Contract Minimum Jobs Creation Requirement are both made by the 7 th year, the SSC will return to 95%		
4. Other information			

FEE IN LIEU OF TAX AGREEMENT

THIS FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT (the “*Fee Agreement*”) is made and entered into as of August 3, 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 (the “*State*”), acting by and through the Anderson County Council (the “*County Council*”) as the governing body of the County, and **DECENNIAL SC, LLC**, a limited liability company organized and existing under the laws of the State of Delaware (the “*Company*”).

RECITALS

1. Title 12, Chapter 44 (the “*FILOT Act*”), Code of Laws of South Carolina, 1976, as amended (the “*Code*”), authorizes the County to (a) induce industries to locate in the State; (b) encourage industries now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (c) enter into a fee agreement with entities meeting the requirements of the FILOT Act, which identifies certain property of such entities as economic development property and provides for the payment of a fee in lieu of tax with respect to such property.

2. Sections 4-1-170 and 12-44-70 of the Code authorize the County to provide special source revenue credit (“*Special Source Revenue Credit*”) financing secured by and payable solely from revenues of the County derived from payments in lieu of taxes for the purposes set forth in Section 4-29-68 of the Code, namely: the defraying of 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 but not limited to machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County (collectively, “*Infrastructure*”).

3. The Company (as a Sponsor, within the meaning of the FILOT Act) desires to provide for the acquisition and construction of the Project (as defined herein) to constitute a facility in the County for organic indoor farming by Shenandoah Growers Inc. (the “*Producer*”).

4. Based on information supplied by the Company, the County Council has evaluated the Project based on relevant criteria that include, but are not limited to, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created or maintained, and the anticipated costs and benefits to the County. Pursuant to Section 12-44-40(H)(1) of the FILOT Act, the County finds that: (a) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project will give rise to no pecuniary liability of the County or any incorporated municipality therein and to no charge against their general credit or taxing powers; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

5. The Project is located, or if not so located as of the date of this Fee Agreement the County intends to use its best efforts to so locate the Project, in a joint county industrial or business park created with an adjoining county in the State pursuant to agreement entered into pursuant to Section 4-1-170 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution.

6. By enactment of an Ordinance on August 3, 2021, the County Council has authorized the County to enter into this Fee Agreement with the Company which classifies the Project as Economic Development Property under the FILOT Act and provides for the payment of fees in lieu of taxes and the

provision of Special Source Credits to reimburse the Company for payment of the cost of certain Infrastructure in connection with the Project, all as further described herein.

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

ARTICLE I

DEFINITIONS

Section 1.01 Definitions

The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

“Administration Expenses” shall mean the reasonable and necessary expenses incurred by the County with respect to this Fee 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.

“Affiliate” shall mean any corporation, limited liability company, partnership or other entity which owns all or part of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or which is owned in whole or in part by the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or by any partner, shareholder or owner of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as well as any subsidiary, affiliate, individual or entity who bears a relationship to the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

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

“Commencement Date” shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date shall not be later than the last day of the property tax year which is three (3) years from the year in which the County and the Company enter into this Fee Agreement.

“Company” shall mean Decennial SC, LLC, a Delaware limited liability company, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Company.

“Condemnation Event” shall mean any act of taking by a public or quasi-public authority through condemnation, reverse condemnation or eminent domain.

“Contract Minimum Investment Requirement” shall mean, with respect to the Project, investment by the Company and any Sponsor Affiliates of at least \$29,621,000 in Economic Development Property subject (non-exempt) to *ad valorem* taxation (in the absence of this Fee Agreement).

“Contract Minimum Jobs Creation Requirement” shall mean, with respect to the Producer, forty-one (41) new full-time jobs (with benefits) with average wages at or exceeding \$20.66 per hour.

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

“County Administrator” shall mean the Anderson County Administrator, or the person holding any successor office of the County.

“County Assessor” shall mean the Anderson County Assessor, or the person holding any successor office of the County.

“County Auditor” shall mean the Anderson County Auditor, or the person holding any successor office of the County.

“County Council” shall mean Anderson County Council, the governing body of the County.

“County Treasurer” shall mean the Anderson County Treasurer, or the person holding any successor office of the County.

“Defaulting Entity” shall have the meaning set forth for such term in Section 6.02(a) hereof.

“Deficiency Amount” shall have the meaning set forth for such term in Section 4.03(a) hereof.

“Department” shall mean the South Carolina Department of Revenue.

“Diminution in Value” in respect of the Project shall mean any reduction in the value, using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.01 of this Fee Agreement, of the items which constitute a part of the Project and which are subject to FILOT Payments which may be caused by the Company’s or any Sponsor Affiliate’s removal and/or disposal of equipment pursuant to Section 4.04 hereof, or by its election to remove components of the Project as a result of any damage or destruction or any Condemnation Event with respect thereto.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the FILOT Act and this Fee Agreement, and selected and identified by the Company or any Sponsor Affiliate in its annual filing of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

“Equipment” shall mean machinery, equipment, furniture, office equipment, and other tangible personal property, together with any and all additions, accessions, replacements, and substitutions thereto or therefor.

“Event of Default” shall mean any event of default specified in Section 6.01 hereof.

“Exemption Period” shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable portion of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year’s investment made during the Investment Period.

“Fee Agreement” shall mean this Fee in Lieu of Tax and Special Source Credit Agreement.

“FILOT” or ***“FILOT Payments”*** shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

“FILOT Act” shall mean Title 12, Chapter 44, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“FILOT Act Minimum Investment Requirement” shall mean, with respect to the Project, an investment of at least \$2,500,000 by the Company, or of at least \$5,000,000 by the Company and any Sponsor Affiliates in the aggregate, in Economic Development Property.

“Improvements” shall mean improvements to the Land, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor.

“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.

“Investment Period” shall mean, and shall be equal to, the Standard Investment Period.

“Land” means the land upon which the Project will be located, as described in Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with Section 3.01(c) hereof.

“MCIP” shall mean (i) the joint county industrial park established pursuant to the terms of the MCIP 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 MCIP Act, or any successor provision, with respect to the Project.

“MCIP Act” shall mean Title 4, Chapter 1, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“MCIP Agreement” shall mean the Agreement for the Development of a Joint County Industrial and Business Park (2010 Park) dated as of December 1, 2010, as amended, between the County and Greenville County, South Carolina, as the same may be further 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 Special Source Credits to the Company hereunder.

“Phase” or ***“Phases”*** in respect of the Project shall mean that the components of the Project are placed in service during more than one year during the Investment Period, and the word “Phase” shall therefore refer to the applicable portion of the Project placed in service in a given year during the Investment Period.

“Project” shall mean the Land and all the Equipment and Improvements that the Company determines to be necessary, suitable or useful for the purposes described in Section 2.02(b) hereof, to the extent determined by the Company and any Sponsor Affiliate to be a part of the Project and placed in service during the Investment Period, and any Replacement Property. Notwithstanding anything in this Fee Agreement to the contrary, the Project shall not include property which will not qualify for the FILOT pursuant to Section 12-44-110 of the FILOT Act, including without limitation property which has been subject to *ad valorem* taxation in the State prior to commencement of the Investment Period; provided, however, the Project may include (a) modifications which constitute an expansion of the real property portion of the Project and (b) the property allowed pursuant to Section 12-44-110(2) of the FILOT Act.

“Producer” shall mean Shenandoah Growers Inc. a Virginia corporation, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Producer.

“Removed Components” shall mean components of the Project or portions thereof which the Company or any Sponsor Affiliate in its sole discretion, elects to remove from the Project pursuant to Section 4.04 hereof or as a result of any Condemnation Event.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment or any Improvement previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement to the fullest extent that the FILOT Act permits.

“Special Source Credits” shall mean the annual special source credits provided to the Company pursuant to Section 4.02 hereof.

“Sponsor Affiliate” shall mean an entity that joins with the Company and that participates in the investment in, or financing of, the Project and which meets the requirements under the FILOT Act to be entitled to the benefits of this Fee Agreement with respect to its participation in the Project, all as set forth in Section 5.13 hereof.

“Standard Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years after the Commencement Date.

“State” shall mean the State of South Carolina.

“Termination Date” shall mean, with respect to each Phase of the Project, the end of the last day of the property tax year which is the 29th year following the first property tax year in which such Phase of the Project is placed in service; provided, that the intention of the parties is that the Company will make at least 30 annual FILOT Payments under Article IV hereof with respect to each Phase of the Project; and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date shall mean the date of such termination.

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

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

Section 1.02 Project-Related Investments

The term “investment” or “invest” as used herein shall include not only investments made by the Company and any Sponsor Affiliates, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Company or any Sponsor Affiliate with respect to the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT Payments by the Company.

[End of Article I]

ARTICLE II

REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.01 Representations, Warranties, and Agreements of the County

The County hereby represents, warrants, and agrees as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Company, the Project constitutes a “project” within the meaning of the FILOT Act.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the FILOT Act and that the Company selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in the State.

(d) The millage rate set forth in Step 3 of Section 4.01(a) hereof is 333.5 mills, which is the millage rate in effect with respect to the location of the proposed Project as of June 30, 2021, as permitted under Section 12-44-50(A)(1)(d) of the FILOT Act.

(e) The County will use its reasonable best efforts to cause the Project to be located in a MCIP for a term extending at least until the end of the period of FILOT Payments against which a Special Source Credit is to be provided under this Fee Agreement.

Section 2.02 Representations, Warranties, and Agreements of the Company

The Company hereby represents, warrants, and agrees as follows:

(a) The Company is organized and in good standing under the laws of the State of Delaware, is duly authorized to transact business in the State, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to operate the Project as a “project” within the meaning of the FILOT Act as in effect on the date hereof. The Company intends to operate the Project for the purpose of indoor agricultural production and distribution, and for such other purposes that the FILOT Act permits as the Company may deem appropriate.

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

(d) The Company, together with any Sponsor Affiliates, will use commercially reasonable efforts to meet, or cause to be met the Contract Minimum Investment Requirement within the Investment Period.

[End of Article II]

ARTICLE III

COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.01 The Project

(a) The Company intends and expects, together with any Sponsor Affiliate and the Producer, to (i) construct and acquire the Project, (ii) meet the Contract Minimum Investment Requirement, and (iii) create approximately 41 new, full-time jobs (with benefits) within the Investment Period. The Company anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2022.

(b) Pursuant to the FILOT Act and subject to Section 4.03 hereof, the Company and the County hereby agree that the Company and any Sponsor Affiliates shall identify annually those assets which are eligible for FILOT Payments under the FILOT Act and this Fee Agreement, and which the Company or any Sponsor Affiliate selects for such treatment by listing such assets in its annual PT-300S form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary notwithstanding, the Company and any Sponsor Affiliates shall not be obligated to complete the acquisition of the Project. However, if the Company, together with any Sponsor Affiliates, does not meet the Contract Minimum Investment Requirement within the Investment Period, the provisions of Section 4.03 hereof shall control.

(c) The Company may add to the Land such real property, located in the same taxing District in the County as the original Land, as the Company, in its discretion, deems useful or desirable. In such event, the Company, at its expense, shall deliver an appropriately revised Exhibit A to this Fee Agreement, in form reasonably acceptable to the County.

Section 3.02 Diligent Completion

The Company agrees to use its reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.03 Filings and Reports

(a) Each year during the term of the Fee Agreement, the Company and any Sponsor Affiliates shall deliver to the County, the County Auditor, the County Assessor and the County Treasurer a copy of their most recent annual filings with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department.

(b) The Company shall cause a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor, and to their counterparts in the partner county to the MCIP Agreement, the County Administrator and the Department within thirty (30) days after the date of execution and delivery of this Fee Agreement by all parties hereto.

(c) Each of the Company and any Sponsor Affiliates agree to maintain complete books and records accounting for the acquisition, financing, construction, and operation of the Project. Such books and records shall (i) permit ready identification of the various Phases and components thereof; (ii) confirm the dates on which each Phase was placed in service; and (iii) include copies of all filings made

by the Company and any such Sponsor Affiliates in accordance with Section 3.03(a) or (b) above with respect to property placed in service as part of the Project.

[End of Article III]

ARTICLE IV
FILOT PAYMENTS

Section 4.01 FILOT Payments

(a) Pursuant to Section 12-44-50 of the FILOT Act, the Company and any Sponsor Affiliates, as applicable, are required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the FILOT Act, the County and the Company have negotiated the amount of the FILOT Payments in accordance therewith. The Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual FILOT Payments shall be in accordance with the following procedure (subject, in any event, to the procedures required by the FILOT Act):

Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using 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 FILOT Act defines such term, that the Company and any Sponsor Affiliates 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 fair market value of the real property for the first year of the Exemption Period remains the fair market value of the real property and Improvements for the life of the Exemption Period. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company and any Sponsor Affiliates if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the FILOT Act specifically disallows.

Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 29 years thereafter or such longer period of years in which the FILOT Act and this Fee Agreement permit the Company and any Sponsor Affiliates to make annual FILOT Payments.

Step 3: Use a millage rate of 333.5 mills during the Exemption Period against the taxable value to determine the amount of the FILOT Payments due during the Exemption Period on the applicable payment dates.

(b) In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Act and/or the herein-described FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof (without increasing the amount of incentives being afforded herein) and so as to afford the Company and any Sponsor Affiliates with the benefits to be derived herefrom, the intention of the County being to offer the Company and such Sponsor Affiliates a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Company and any Sponsor Affiliates shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company and such Sponsor Affiliates. Any amount determined to be due and owing to the County from the Company and such Sponsor Affiliates, with respect to a year or years for which the Company or such Sponsor Affiliates previously remitted FILOT Payments to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company or such Sponsor Affiliates would be entitled if the Economic Development Property was not and had not been Economic Development Property under the Act; and (ii) be reduced by the total amount of FILOT Payments the Company or such Sponsor Affiliates had made with respect to the Project pursuant to the terms hereof.

Section 4.02 Special Source Credits

(a) In accordance with and pursuant to Section 12-44-70 of the FILOT Act and Section 4-1-175 of the MCIP Act, in order to reimburse the Company for qualifying capital expenditures incurred for costs of the Infrastructure during the Standard Investment Period, the Company shall be entitled to receive, and the County agrees to provide, annual Special Source Credits against the Company's FILOT Payments for a period of thirty (30) consecutive years in an amount equal to ninety-five percent (95%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Standard Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement.

(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 a Special Source Credit is taken.

(c) In no event shall the aggregate amount of all Special Source Credits claimed by the Company exceed the amount expended 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 C.

(d) As provided in Section 4-29-68 of the Code, to the extent any Special Source Credit is taken against fee in lieu of tax payment on personal property, and the personal property is removed from the Project at any time during the term of this 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 shall be due for the two (2) years immediately following such removal.

(e) Each annual Special Source Credit shall be reflected by the County Auditor or other authorized County official or representative on each bill for FILOT Payments sent to the Company by the County for each applicable property tax year, by reducing such FILOT Payments otherwise due by the amount of the Special Source Credit to be provided to the Company for such property tax year.

(f) The Special Source Credits are payable solely from the FILOT Payments, are not secured by, or in any way entitled to, a pledge of the full faith, credit or taxing power of the County, are not an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation, are payable solely from a special source that does not include revenues from any tax or license, and are not a pecuniary liability of the County or a charge against the general credit or taxing power of the County.

(g) All fee-in-lieu of *ad valorem* taxes pursuant to the agreement received by the County for MCIP premises located in the County attributable to current MCIP property shall be distributed in accordance with Section 3 of Ordinance 2010-026 and Paragraph 7 of the MCIP Agreement. All fee-in-lieu of *ad valorem* taxes pursuant to the agreement received by the County for MCIP premises located in the County attributable to MCIP property added on and after November 16, 2020 shall be distributed, net of special source credits provided by the County pursuant to Section 4-1-175 (“Net Park Fees”) as follows: First, 15% of Net Park Fees shall be deposited to Bond Fund created by Ordinance 2018-042 and used as required or permitted thereby, Second, 35% of Net Park Fees, and any surplus money under Ordinance 2018-042, shall be deposited to the Capital Renewal and Replacement Fund of the County, and Third, remaining Net Park Fees shall be disbursed to each of the taxing entities in the County which levy an old *ad valorem* property tax in any of the areas comprising the County’s portion of the MCIP in the same percentage as is equal to that taxing entity’s percentage of the millage rate (and proportion of operating and debt service millage) being levied in the current tax year for property tax purposes.

Section 4.03 Failure to Achieve Minimum Investment Requirement

(a) Should the Contract Minimum Investment Requirement not be met by the Company by the end of the Standard Investment Period or should the Contract Minimum Jobs Creation Requirement not be met by the Producer by the end of the Standard Investment Period, any subsequent Special Source Credits shall be reduced to eighty-five percent (85%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement; except, however, if the Contract Minimum Investment Requirement and the Contract Minimum Jobs Creation Requirement are both met by the end of the seventh (7th) tax year following the Commencement Date, then the Special Source Credits going forward shall return to ninety-five (95%). Any portion of Special Source Credits lost because of a failure to meet the Contract Minimum Investment Requirement or the Contract Minimum Jobs Creation Requirement by the end of the Standard Investment Period shall not be recoverable by the Company or its Sponsor Affiliates.

(b) As a condition to the FILOT benefit provided herein, the Company agrees to provide the County Administrator, the County Assessor, the County Auditor and the County Treasurer with an annual certification as to investment in the Project. Such certification shall be in substantially the form attached hereto as Exhibit B, and shall be due no later than the May 1 following the immediately preceding December 31 of each year during the Investment Period.

Section 4.04 Removal of Equipment

Subject, always, to the other terms and provisions of this Fee Agreement, the Company and any Sponsor Affiliates shall be entitled to remove and dispose of components of the Project from the Project in its sole discretion with the result that said components shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement. Economic Development Property is disposed of only when it is scrapped or sold or removed from the Project. If it is removed from the Project, it is subject to *ad valorem*

property taxes to the extent the Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.05 FILOT Payments on Replacement Property

If the Company or any Sponsor Affiliate elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Company or any Sponsor Affiliate otherwise utilizes Replacement Property, then, pursuant and subject to the provisions of Section 12-44-60 of the FILOT Act, the Company or such Sponsor Affiliate shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest Economic Development Property subject to the FILOT, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development Property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is entitled to treatment under the Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the FILOT shall be recorded using its income tax basis, and the calculation of the FILOT shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the FILOT.

Section 4.06 Reductions in Payment of Taxes Upon Diminution in Value; Investment Maintenance Requirement

In the event of a Diminution in Value of the Economic Development Property, the FILOT Payment in Lieu of Taxes with regard to the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property as determined pursuant to Step 1 of Section 4.01(a) hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project remaining in the County based on the original income tax basis thereof (that is, without regard to depreciation), is less than the FILOT Act Minimum Investment Requirement, then beginning with the first payment thereafter due hereunder and continuing until the Termination Date, the Project shall no longer be entitled to the incentive provided in Section 4.01, and the Company and any Sponsor Affiliate shall therefore commence to pay regular *ad valorem* taxes thereon, calculated as set forth in Section 4.01(b) hereof.

[End of Article IV]

ARTICLE V

PARTICULAR COVENANTS AND AGREEMENTS

Section 5.01 Cessation of Operations

Notwithstanding any other provision of this Fee Agreement, each of the Company and any Sponsor Affiliates acknowledges and agrees that County's obligation to provide the FILOT incentive may end, and this Fee Agreement may be terminated by the County, at the County's sole discretion, if the Company ceases operations at the Project. For purposes of this Section, "ceases operations" means closure of the facility or the cessation of production and shipment of products to customers for a continuous period of twelve (12) months. The provisions of Section 4.03 hereof relating to retroactive payments shall apply, if applicable, if this Fee Agreement is terminated in accordance with this Section prior to the end of the Investment Period. Each of the Company and any Sponsor Affiliates agrees that if this Fee Agreement is terminated pursuant to this subsection, that under no circumstance shall the County be required to refund or pay any monies to the Company or any Sponsor Affiliates.

Section 5.02 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, and shall be subject to the provisions of Section 5.03 hereof.

Section 5.03 Confidentiality

The County acknowledges and understands that the Company and any Sponsor Affiliates may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (herein "Confidential Information"). In this regard, the Company and any Sponsor Affiliates may clearly label any Confidential Information delivered to the County "Confidential Information." The County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall disclose or otherwise divulge any such clearly labeled Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law. Each of the Company and any Sponsor Affiliates acknowledge that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. In the event that the County is required to disclose any Confidential Information obtained from the Company or any Sponsor Affiliates to any third party, the County agrees to provide the Company and such Sponsor Affiliates with as much advance notice as is reasonably possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Company and such Sponsor Affiliates to obtain judicial or other relief from such disclosure requirement.

Section 5.04 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 (it being intended herein that any obligations of the County with respect to the Special Source Credits shall be payable only from FILOT Payments received from or

payable by the Company or any Sponsor Affiliates); provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

Section 5.05 Mergers, Reorganizations and Equity Transfers

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

Section 5.06 Indemnification Covenants

(a) Notwithstanding any other provisions in this Fee Agreement or in any other agreements with the County, the Company agrees to indemnify, defend and save the County, its County Council members, elected officials, officers, 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 or the Land by the Company or any Sponsor Affiliate, their members, officers, shareholders, employees, servants, contractors, and agents during the term of this Fee Agreement, and, the Company further, shall indemnify, defend and save the Indemnified Parties harmless against and from all claims arising during the term of this Fee Agreement from (i) entering into and performing its obligations under this Fee Agreement, (ii) any condition of the Project, (iii) any breach or default on the part of the Company or any Sponsor Affiliate in the performance of any of its obligations under this Fee Agreement, (iv) any act of negligence of the Company or any Sponsor Affiliate or its agents, contractors, servants, employees or licensees, (v) any act of negligence of any assignee or lessee of the Company or any Sponsor Affiliate, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Company or any Sponsor Affiliate, or (vi) any environmental violation, condition, or effect with respect to the Project. 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 Fee Agreement, or the undertakings required of the County hereunder, by reason of the granting of the FILOT, by reason of the execution of this Fee Agreement, by the reason of the performance of any act requested of it by the Company or any Sponsor Affiliate, or by reason of the County’s relationship to the Project or by the operation of the Project by the Company or any Sponsor Affiliate, 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 attributable to (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Fee Agreement by the County.

(c) Notwithstanding anything in this Fee 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 any Sponsor Affiliate, shall survive any termination of this Fee Agreement.

Section 5.07 Qualification in State

Each of the Company and any Sponsor Affiliates warrant 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 5.08 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 elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any elected official, officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any elected official, 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 5.09 Assignment, Leases or Transfers

The County agrees that the Company and any Sponsor Affiliates may at any time (a) transfer all or any of their rights and interests under this Fee Agreement or with respect to all or any part of the Project, or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing or other entity with respect to this Fee Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or any Sponsor Affiliate or operates such assets for the Company or any Sponsor Affiliate or is leasing the portion of the Project in question from the Company or any Sponsor Affiliate. In order to preserve the FILOT benefit afforded hereunder with respect to any portion of the Project so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to an Affiliate of the Company or of any Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company and any Sponsor Affiliates, as applicable, shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County in its sole discretion and as evidenced by resolution passed by the County Council; (ii) except when a financing entity which is the income tax owner of all or part of the Project is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or any Sponsor Affiliate, as the case may be, hereunder, or when the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Company and any Sponsor Affiliates hereunder; (iii) to the

extent the transferee or financing entity shall become obligated to make FILOT Payments hereunder, the transferee shall assume the then current basis of, as the case may be, the Company or any Sponsor Affiliates (or prior transferee) in the portion of the Project transferred; (iv) the Company or applicable Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department a true and complete copy of any such transfer agreement; and (v) the Company, the Sponsor Affiliates and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent when required under this Section, and at the expense of the Company or any Sponsor Affiliate, as the case may be, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or such Sponsor Affiliate under this Fee Agreement and/or any release of the Company or such Sponsor Affiliate pursuant to this Section.

Each of the Company and any Sponsor Affiliates acknowledges that such a transfer of an interest under this Fee Agreement or in the Project may cause all or part of the Project to become ineligible for the FILOT benefit afforded hereunder or result in penalties under the FILOT Act absent compliance by the Company and any Sponsor Affiliates with the Transfer Provisions.

Section 5.10 Administration Expenses

The Company agrees to pay any Administration Expenses to the County when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is forty-five (45) days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's or Indemnified Party's right to receive such payment, specifying the nature of such expense and requesting payment of same.

Section 5.11 Priority Lien Status

The County's right to receive FILOT Payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the FILOT Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code.

Section 5.12 Interest; Penalties

In the event the Company or any Sponsor Affiliate should fail to make any of the payments to the County required under this Fee Agreement, then the item or installment so in default shall continue as an obligation of the Company or such Sponsor Affiliate until the Company or such Sponsor Affiliate shall have fully paid the amount, and the Company and any Sponsor Affiliates agree, as applicable, to pay the same with interest thereon at a rate, unless expressly provided otherwise herein and in the case of FILOT Payments, of 5% per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT Payments, at the rate for non-payment of *ad valorem* taxes under State law and subject to the penalties the law provides until payment.

Section 5.13 Sponsor Affiliates

The Company may designate from time to time any Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(20) and 12-44-130 of the FILOT Act, which Sponsor Affiliates shall join with the Company and make investments with respect to the Project, or participate in the financing of such

investments, and shall agree to be bound by the terms and provisions of this Fee Agreement pursuant to the terms of a written joinder agreement with the County and the Company, in form reasonably acceptable to the County. The Company shall provide the County and the Department with written notice of any Sponsor Affiliate designated pursuant to this Section within ninety (90) days after the end of the calendar year during which any such Sponsor Affiliate has placed in service any portion of the Project, in accordance with Section 12-44-130(B) of the FILOT Act.

[End of Article V]

ARTICLE VI

DEFAULT

Section 6.01 Events of Default

The following shall be “Events of Default” under this Fee Agreement, and the term “Event of Default” shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company or any Sponsor Affiliate to make the FILOT Payments described in Section 4.01 hereof, or any other amounts payable to the County under this Fee Agreement when due, which failure shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; provided, however, that the Company and any Sponsor Affiliates shall be entitled to all redemption rights granted by applicable statutes; or

(b) A representation or warranty made by the Company or any Sponsor Affiliate hereunder which is deemed materially incorrect when deemed made; or

(c) Failure by the Company or any Sponsor Affiliate to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of thirty (30) days after written notice from the County to the Company and such Sponsor Affiliate specifying such failure and requesting that it be remedied, unless the Company or such Sponsor Affiliate shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Company or such Sponsor Affiliate is diligently pursuing corrective action; or

(d) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of thirty (30) days after written notice from the Company to the County and any Sponsor Affiliates specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 6.02 Remedies Upon Default

(a) Whenever any Event of Default by the Company or any Sponsor Affiliate (the “*Defaulting Entity*”) shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions as to the Defaulting Entity, only:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder.

In no event shall the Company or any Sponsor Affiliate be liable to the County or otherwise for monetary damages resulting from the Company’s (together with any Sponsor Affiliates) failure to meet the Contract Minimum Investment Requirement other than as expressly set forth in this Fee Agreement.

In addition to all other remedies provided herein, the failure to make FILOT Payments shall give rise to a lien for tax purposes as provided in Section 12-44-90 of the FILOT Act. In this regard, and

notwithstanding anything in this Fee Agreement to the contrary, the County may exercise the remedies that general law (including Title 12, Chapter 49 of the Code) provides with regard to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Company and any Sponsor Affiliate may take one or more of the following actions:

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

Section 6.03 Reimbursement of Legal Fees and Expenses and Other Expenses

Upon the occurrence of an Event of Default hereunder by the Company or any Sponsor Affiliate, should the County be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 6.04 No Waiver

No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

[End of Article VI]

ARTICLE VII
MISCELLANEOUS

Section 7.01 Notices

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

If to the Company:

Decennial SC, LLC
Attn: John Krappman
120 N. Racine Avenue, Suite 200
Chicago, IL 60607

With a copy to:

James K. Price
Nexsen Pruet, LLC
104 South Main Street, Suite 900
Greenville, South Carolina 29601

If to the County:

Anderson County
Attn: Rusty Burns, County Administrator
P.O. Box 8002
Anderson, South Carolina 29622-8002

With a copy to:

Anderson County Attorney
P.O. Box 8002
Anderson, South Carolina 29622-8002

Section 7.02 Binding Effect

This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Company and any Sponsor Affiliates, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 7.03 Counterparts

This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 7.04 Governing Law

This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 7.05 Headings

The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 7.06 Amendments

The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 7.07 Further Assurance

From time to time, and at the expense of the Company and any Sponsor Affiliates, the County agrees to execute and deliver to the Company and any such Sponsor Affiliates such additional instruments as the Company or such Sponsor Affiliates may reasonably request and as are authorized by law and reasonably within the purposes and scope of the FILOT Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 7.08 Invalidity; Change in Laws

In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the FILOT Act, to the extent not inconsistent with any of the explicit terms hereof. If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Company and any Sponsor Affiliates with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company and any Sponsor Affiliates the strongest inducement possible, within the provisions of the FILOT Act, to locate the Project in the County. In case a change in the FILOT Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Company and any Sponsor Affiliates and the FILOT incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, and, if the County Council so decides, to provide the Company and any Sponsor Affiliates with the benefits of such change in the FILOT Act or South Carolina laws.

Section 7.09 Termination by Company

The Company is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with thirty (30) days' written notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party

hereto (including without limitation any amounts owed with respect to Section 4.03 hereof); and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to *ad valorem* taxation or such other taxation or fee in lieu of taxation that would apply absent this Fee Agreement. The Company's obligation to make FILOT Payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 7.10 Entire Understanding

This Fee 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 Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 7.11 Waiver

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

Section 7.12 Business Day

In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or 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.

Section 7.13 Facsimile/Scanned Signature

The parties agree that use of a fax or scanned signature and the signatures, initials, and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signature, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

[End of Article VII]

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

ANDERSON COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Tommy Dunn, Chairman of County Council,
Anderson County, South Carolina

ATTEST:

Lacey Croegaert, Clerk to County Council,
Anderson County, South Carolina

[Signature Page 1 to Fee in Lieu of Tax and Special Source Credit Agreement]

DECENNIAL SC, LLC

By: _____
Its: _____

[Signature Page 2 to Fee in Lieu of Tax and Special Source Credit Agreement]

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

BEGINNING at a point in the center of U.S. Highway 29 (75' Right of Way) being the same point as the south east corner as shown on that certain Plat recorded in book 872, at page 9-A in the Anderson County Register of Deeds and also being the same corner as shown as the South West corner of the lands shown on that certain Plat of Lands for Dorothy M. Sullivan recorded in volume 91, page 956 in the Anderson County Registry of deeds. Thence running the following Fourteen (14) courses and distances along the center of said U. S. Highway 29.

1. S 40° 07' 53" W for a distance of 118.56 feet to a point on a line.
2. S 42° 49' 09" W for a distance of 118.63 feet to a point on a line.
3. S 45° 04' 20" W for a distance of 117.90 feet to a point on a line.
4. S 47° 21' 02" W for a distance of 117.29 feet to a point on a line.
5. S 49° 50' 07" W for a distance of 113.97 feet to a point on a line.
6. S 52° 02' 07" W for a distance of 118.41 feet to a point on a line.
7. S 54° 21' 56" W for a distance of 116.73 feet to a point on a line.
8. S 57° 10' 10" W for a distance of 123.11 feet to a point on a line.
9. S 59° 48' 59" W for a distance of 125.47 feet to a point on a line.
10. S 62° 02' 33" W for a distance of 112.47 feet to a point on a line.
11. S 64° 14' 30" W for a distance of 113.75 feet to a point on a line.
12. S 66° 36' 26" W for a distance of 231.79 feet to a point on a line.
13. S 66° 40' 45" W for a distance of 350.27 feet to a point on a line.
14. S 67° 00' 55" W for a distance of 304.76 feet to a point on a line.

Thence departing said centerline of U. S. Highway 29, N 37° 36' 36" W running past a found 3/4 inch Iron Pipe at 28.77 feet for a total distance of 611.24 feet to the south East corner of Lot 4 as shown on that Untitled Plat of 7 Lots recorded in Anderson County Registry of Deeds in Plat Book 42, Page 213, where a 3/4 inch was found. Thence turning North running along the East edge of said Plat, N 11° 33' 3" E for a distance of 462.80 feet to a found 3/4 inch Iron Pipe for corner. Thence, N 53° 28' 10" E for a distance of 225.05 feet to a found 3/4 inch Iron Pipe for corner. Thence, N 53° 08' 49" E for a distance of 112.12 feet to a found 1 inch Iron Pipe for corner. Thence, N 52° 33' 27" E for a distance of 375.89 feet to a found 3/4 inch Iron Pipe for corner. Thence, N 52° 27' 18" E a distance of 166.46 feet to a found 3/4 inch Iron Pipe for corner. Thence, N 52° 42' 25.8" E for a distance of 186.23 feet to a found 3/4 inch Iron Pipe for corner. Thence, N 52° 34' 02" E for a distance of 454.13 feet to a found 5/8 inch Iron Rod being the North East corner of the subject tract and the North West corner of the lands shown on that certain Plat of Lands for Dorothy M. Sullivan

recorded in volume 91, page 956 in the Anderson County Registry of deeds. Thence running, S 51° 19' 59" E for a distance 684.37 feet past a found 5/ 8 inch Iron Rod being 4.02 feet West of the line, then 332.69 feet to a found 5/ 8 inch Iron Rod being on line, then to another found 5/ 8 inch Iron Rod at a point 54.10 feet from the centerline of said U. S. Highway 29 and The Point of Beginning, for a total distance of 1154.37 feet to the Point of Beginning. Containing 2,179,895 Square Feet or 50.04 Acres more or less.

TMS: 099-00-02-006

PARCEL 2:

BEGINNING at a found 3/4 inch Iron Pipe at the south East corner of Lot 4 as shown on that Untitled Plat of 7 Lots recorded in Anderson County Registry of Deeds in Plat Book 42, Page 213. Thence running N37°36'36"W a distance of 28.77 feet to the Centerline of Cleveland Drive. Thence running through the centerline of Cleveland Drive along a curve to the right through an angle of 17°43'07", with an Arc length of 417.20 feet and a radius of 1349.08 feet, and whose chord bears N09°56'36"E for a distance of 415.54 feet to a point. Thence departing said roadway, N 53° 28' 10" E for a distance of 43.55 feet to found 3/4 inch Iron Pipe for corner. Thence run S 11° 33' 30" W a distance of 462.80 feet to the South East corner of said Lot 4 and the Point of Beginning a Containing 14,716 Square Feet or 0.34 Acres more or less.

TMS: 099-01-03-001

EXHIBIT B

INVESTMENT CERTIFICATION

I _____, the _____ of _____ (the "**Company**"), do hereby certify in connection with Section 4.03 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 20__ between Anderson County, South Carolina and the Company (the "**Agreement**"), as follows:

(1) The total investment made by the Company and any Sponsor Affiliates in the Project during the calendar year ending December 31, 20__ was \$_____.

(2) The cumulative total investment made by the Company and any Sponsor Affiliates in the Project from the period beginning _____, 20__ (that is, the beginning date of the Investment Period) and ending December 31, 20__, is \$_____.

(3) The total number of employees of the Producer at the Project as of December 31, 20__ is ____ and their average wage exceeds \$20.66 per hour.

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__.

Name: _____

Its: _____

EXHIBIT C

INFRASTRUCTURE INVESTMENT CERTIFICATION

I _____, the _____ of _____ (the "**Company**"), do hereby certify in connection with Section 4.02 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 20__ between Anderson County, South Carolina and the Company (the "**Agreement**"), as follows:

(1) As of the date hereof, the aggregate amount of Special Source Credits previously received by the Company and any Sponsor Affiliates is \$_____.

(2) As of December 31, 20__, the aggregate amount of investment in costs of Infrastructure incurred by the Company and any Sponsor Affiliates during the Investment Period is not less than \$_____.

(3) **[Use only if expenditures for personal property will be used to account for Special Source Credits.]** Of the total amount set forth in (2) above, \$_____ pertains to the investment in personal property, including machinery and equipment, at the Project. The applicable personal property, and associated expenditures, are listed below:

Personal Property Description

Investment Amount

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__.

Name: _____
Its: _____

ORDINANCE NO. 2021-045

AN ORDINANCE TO AMEND AN AGREEMENT FOR THE DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (2010 PARK) OF ANDERSON AND GREENVILLE COUNTIES SO AS TO ENLARGE THE PARK TO ADD FITESA SIMPSONVILLE, INC. TO THE BUSINESS PARK; AND OTHER MATTERS RELATED THERETO.

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

WHEREAS, pursuant to Section 3(A) of the 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, in connection with certain incentives being offered by Greenville County, it is now desired that the boundaries of the Park be enlarged to include certain parcel(s) in Greenville County;

NOW, THEREFORE, be it ordained by Anderson County Council that Exhibit A to the Agreement is hereby and shall be amended and revised to include the property located in Greenville County described in the schedule attached to this Ordinance and, pursuant to Section 3(B) of the Agreement, upon adoption by Greenville County of a corresponding ordinance, the Agreement shall be deemed amended to so include such property described on Exhibit A, without further action by either county.

DONE in meeting duly assembled this ___ day of _____, 2021.

(SEAL)

ATTEST:

Rusty Burns
Anderson County Administrator

Seth A. Riddley
Asst. Anderson County Clerk to Council

APPROVE AS TO FORM:

Leon C. Harmon
Anderson County Attorney

FOR ANDERSON COUNTY

Tommy Dunn, Chairman
Anderson County Council

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

Addition to Exhibit A 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

Greenville County TMS Numbers:

- 0331.00-01-001.02
- 0331.00-01-001.03
- 0331.00-01-001.04
- 0331.00-01-001.08
- 0331.00-01-001.09
- 0331.00-01-001.16
- 0331.00-01-001.17

ORDINANCE NO.: 2020-035

AN ORDINANCE TO AMEND SECTION 38-302, 38-312, 38-331, 38-351, 38-353, 38-356, 38-358, and 38-371 of ARTICLE 111 (SUBDIVISIONS), CHAPTER 38 OF THE CODE OF ORDINANCES, ANDERSON COUNTY, SOUTH CAROLINA SO AS TO PROVIDE FOR CONSERVATION DEVELOPMENT STANDARDS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Anderson County, South Carolina, a body politic and corporate and a political subdivision of the state of South Carolina, acting by and through the Anderson County Council, previously adopted Chapter 38 of the Code of Ordinance and, from time to time, has amended certain provision of Chapter 38 of the Code of Ordinances);

WHEREAS, the Anderson County Council desires to further amend Chapter 38 of the Code of Ordinances to adopt standards for development of conservation subdivisions;

WHEREAS, conservation subdivisions allow for the preservation of open space in exchange for more compact development within prescribed standards; and

WHEREAS, conservation subdivisions provide an alternative for development of parcels property within Anderson County.

NOW THEREFORE, be it ordained in meeting duly assembled that:

1. Chapter 38 of the Code of Ordinances, Anderson County, South Carolina is hereby amended to read as follows:
 - a. Section 38-302 is hereby amended to add definitions for Natural Areas”, “Scenic View”, Trails”, and Historic Site or Structure” as provided in Exhibit A attached hereto.
 - b. Section 38-312 is hereby amended to add item (17) and (18) to items of information required for a preliminary plat as provided in Exhibit A attached hereto.
 - c. Section 38-331 is hereby amended as provided in Exhibit A attached hereto.
 - d. Section 38-351 is hereby amended as provided in Exhibit A attached hereto.
 - e. Section 38-353 is hereby amended as provided in Exhibit A attached hereto.
 - f. Section 38-356 is hereby amended as provided in Exhibit A attached hereto.

- g. Section 38-358 is hereby amended as provided in Exhibit A attached hereto.
- h. Section 38-371 is hereby amended as provided in Exhibit A attached hereto.
- 3. The remaining terms and provisions of the Anderson County Code of Ordinances not revised or affected hereby remain in full force and effect.
- 4. 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.
- 5. 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.
- 6. 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, District #5, Chairman

Seth A. Riddley
Assistant Clerk to Council

APPROVED AS TO FORM:

Leon C. Harmon
Anderson County Attorney

1st Reading: _____

2nd Reading: _____

3rd Reading: _____

Public Hearing: _____

EXHIBIT A

CHAPTER 38, ARTICLE III – SUBDIVISIONS

ITEMS IN (1) **GREEN** ARE NEW VERBIAGE FOR CONSERVATION SUBDIVISIONS

(2) **BLUE** ARE ADDITIONAL CHANGES NEEDED

(3) **RED** ARE CHANGES MADE BY ORDINANCE 21-009

(4) **BLACK** ARE EXISTING CODE LANGUAGE

ARTICLE III. - SUBDIVISIONS

ITEMS IN GREEN ARE NEW VERBIAGE FOR CONSIDERATION FOR CONSERVATION SUBDIVISIONS, BLUE IS OTHER CHANGES NEEDED, BLACK IS EXISTING LAW

Sec. 38-302. - Definitions.

The following definitions shall apply to the subdivision regulations:

Natural Areas: areas of undisturbed vegetation or areas replanted with vegetation after construction.

Open space: Undeveloped land suitable for low impact resource-based outdoor recreation and/or conservation purposes. This definition can include land with environmental value such as preserve/preservation lands, and can also include land required or desired to provide for aesthetic and scenic value. Open space may include utility rights of way if utility construction is below ground, but may not include utilities constructed above ground nor stormwater management areas unless these areas are open to recreational uses by the occupants of the development and/or enhance the aesthetic value of bordering uses.

Scenic View: an outstanding or unique view of distant landscapes of scenic grandeur, outstanding views of large bodies of water, or panoramic view of the skyline.

Trails: a travel route established either through construction or use that is passable by foot traffic or bicycles.

Historic Site or Structure – Historic site or Historic Structure is an official location designated by a federal or state government as a historic site where pieces of archeological, architectural, political, military, cultural, or social history have been preserved due to their cultural heritage value. For the purposes of this ordinance, a site is considered a Historic Site if it is properly listed on the National Register of Historic Places by the U.S. Department of Interior.

Sec. 38-312. - Preliminary plat.

The preliminary plat shall contain the following information:

(17) For Conservation Subdivisions: Density Table showing the total land area (acres), number of lots total, number of lots per acre, open space (acres and percent of total).

(18) For Conservation Subdivisions: Clear delineation of open space on plat.

DIVISION 4. - ADMINISTRATIVE PROCEDURE; FINAL PLAT

Sec. 38-331. - Final approval required.

- (a) The final subdivision plat shall be prepared and submitted to the planning commission by the subdivider within 12 months after the approval of the preliminary plat. If the final plat is not submitted to the planning commission within that time frame, preliminary approval shall be null and void unless an extension of time is applied for and granted by the planning commission. Final plat approval may be given for any phase of a subdivision where phased development is clearly indicated on the preliminary plat; provided, however, that once the first phase of any final plat is recorded and 80 percent of the lots in that phase are sold, the subdivider has two years to receive approval and record the final plat for the next phase, using the subdivision regulations as they were approved at the time the preliminary plat for the first phase was recorded. This same time frame shall hold consistent through the development process, but only for those phases which were shown on the preliminary plat.

(1) Conservation subdivisions may be done in phases, however all phases must be a part of a conservation design master plan that must be approved at the beginning of the development process.

- (b) Final plats shall be submitted for approval by the planning commission in the following manner:

- (1) ~~Seventeen~~ **Five** copies of the final plat shall be turned in to the planning department at least 14 working days, but not greater than 20 days, prior to any commission meeting at which the subdivider would like the plat to be ~~discussed considered~~. ~~The subdivider shall also provide the county with a digital DXF file of the subdivision on approved media. If the subdivider is unable to provide the digital file, an administrative fee of \$5.00 per lot shall be charged, not to exceed \$500.00.~~
- (2) Additional copies of the final plat shall be provided to the planning department upon request.
- (3) Any deed restrictions or restrictive covenants then applying to all or a part of the subdivision shall be submitted along with the final plat at the time of submission to the planning department.

(c) Final Plats for Conservations Subdivisions must also include:

(1) Open space table, using the same format as on the preliminary plan, and shall include the proportional acreage being recorded.

(2) Notations indicating the delineated open space, including metes and bounds, are to be shown on the Final Plat.

(3) Open Space Easements:

(a) Prior to the recording of a subdivision final plat, an easement shall be placed on all lands and private waters used to satisfy the open space requirements of the Conservation Subdivision.

(b) The easement shall be solely for the purpose of ensuring the land remains undeveloped and shall not, in any way, imply the right of public access or any other right or duty not expressly set forth by the terms of the easement.

(c) The easement shall run with the land, provide for protection in perpetuity, and be granted to an approved owner and recorded with the Anderson County Register of Deeds. The owner shall include a properly organized property-owners association or other third party approved according to the ordinances of Anderson County.

(d) The easement shall include a complete metes and bounds of the property being designated as open space.

(4) Notes to be included on the Final Plat:

(a) This development has been approved by the Planning Commission as a Conservation Subdivision and has provided certain acreage of open space.

(b) Open Space Easement. The removal of trees and natural vegetation is permitted in the development phases for the purpose of utility crossing easements, establishment of site-line requirements of the SC Department of Transportation or the Administrator, removal of invasive species according to a plan approved by the Administrator, or passive recreational uses and

drainage ways with the proper notations on the final plat. Neither the developer, property owners, or other subsequent contractors or builders shall be granted permission to remove or destroy any trees or natural vegetation from the open space areas except by the owner of the easement or the Administrator. If some part of the open space was designated to meet stormwater management requirements, permission must be obtained from the Anderson County Stormwater Division for any alteration of the designated open space. Normal maintenance and the removal of dead or fallen trees are permitted and recommended.

(5) Subdivision Covenants: the covenants for the subdivision shall include provisions for the protection of trees and other natural amenities within the property designated for open space. A copy of the covenants is to be provided prior to the recording of a final plat.

DIVISION 5. - DESIGN STANDARDS

Sec. 38-351. - Design standards.

The size, shape, and orientation of the lots shall be appropriate for the location of the proposed subdivision and for the type of development ~~contemplated~~ proposed.

Conservation subdivisions allow for the preservation of open space in exchange for more compact development. The purpose of the Conservation Subdivision is to preserve agricultural and forestry lands, natural and cultural features, provide open areas for rest and recreation, and encourage the development of more attractive neighborhoods with economical site design that conserve sensitive areas. Specific objectives are as follows:

- (1) To preserve open land, including those areas containing unique and sensitive features such as natural areas and wildlife habitats, streams, wetlands, and floodplains.
- (2) To preserve scenic views and elements of the county's rural character and to minimize perceived density by minimizing views of new development from existing roads.
- (3) To minimize site disturbance and erosion through retention of existing vegetation.
- (4) To provide for the active and passive recreational needs of the residents of the proposed subdivision.
- (5) To provide greater efficiency in the siting of services and infrastructure by reducing road length, utility runs, and the amount of paving for development
- (6) To encourage the maintenance and enhancement of habitat for various forms of wildlife and to create new woodlands through natural succession and reforestation where appropriate.
- (7) To preserve and maintain historic sites and structures that serve as significant visible reminders of the county's social, archeological, and architectural history.
- (8) To create compact neighborhoods accessible to open space amenities and with a strong identity.

Conservation subdivisions must be 5 acres or larger and land area for the proposed conservation subdivision must be preserved as open space according to the table below (351). Examples of areas to be considered for open space protection are scenic vistas, natural water courses, woodlands, waterfalls, coves, geologic features, wetlands, floodplains, lakes, creeks. Buffers, Septic drain fields as part of a community wastewater collection and treatment system, and other underground utilities, may be permitted within the required open space.

Conservation subdivisions must have a minimum of fifty (50) foot buffer provided for the perimeter of the development. Within the fifty (50) foot buffer, existing vegetation shall not be clear cut and existing significant trees shall be preserved unless a plan is submitted to and approved by the Administrator that addresses site-specific conditions like the presence of invasive species, to remove dead or dying plants and trees, to improve screening, or other factors that may make

removal of existing vegetation beneficial to the subdivision. The 50 foot buffer provided along the existing road frontage adjoining the subdivision shall be designated as open space or common area and can include; walkways, paths, trails and other elements associated with passive recreation or the provision for continuous pedestrian and bicycle connections between adjoining properties. However, if a buffer of at least 25 feet already exists between the proposed subdivision and an adjoining subdivision, a 25 foot buffer is required where the buffer on the adjoining property already exists.

For Conservation subdivisions the ownership of open space shall be held by a Homeowners Association, or cooperative associations or organizations, a non-profit or quasi-public organization committed to the protection and conservation of open space, subject to their acceptance, or may be deeded to Public Jurisdiction or Agency, subject to their acceptance.

Table 351. Required Open Space

Average Lot Size	Open Space Required
2 Acres or Greater	None
1 Acre to 1.99 Acres	At least 10%
0.5 Acre to .99 Acre	At least 15%
Under 0.5 Acre	At least 25%

The Open Space required in the above table shall be the percentage of land area of the total acreage to be subdivided, which shall be set aside as protected open space for natural habitat preservation, passive recreation, and/or conservation for agriculture.

Sec. 38-353. - Access.

- (a) All lots developed in the county from the date of the adoption of this article must be situated on or have direct access by right-of-way or easement to an approved county, state maintained road, or private road built to county standards. Direct access to any new lot must be in the form of an individual right of way or easement for each lot, not less than 20 feet in width, to a county road or private road built to county standards. Direct access to a state road must be in the form of an individual right of way or easement for each lot, not less than 20 feet in width. All accesses onto state roads shall be approved in writing by the SCDOT prior to plat approval by the subdivision administrator.
- (b) **Conservation subdivisions shall have a minimum of one primary access point from an internal subdivision road to all open spaces. Additional secondary access points are encouraged. The primary access points shall not be less than twenty (20) feet in width. Additional secondary access points shall not be less than six (6) feet in width. Primary and secondary access points to open space shall be shown as part of the open space and shall not be part of an individual lot nor shall it be an easement.**

Sec. 38-356. - Waterways.

In any subdivision, natural waterways and riparian buffers shall remain natural and shall be kept clear of obstruction. **For conservation subdivisions, State riparian laws shall apply however a minimum of fifty (50) foot riparian buffer measured from the top of bank shall be provided on all waters of the state.**

Sec. 38-358. - Intensity standards.

- (a) One subdivision entrance is required for every 100 lots of a proposed subdivision.
- (b) **For conservation subdivisions, at least 50% of the lots shall directly front open spaces or face open spaces from across a subdivision street unless a variance is granted by the Planning Commission.**

DIVISION 6. - DESIGN STANDARDS; LOT DIMENSIONS

Sec. 38-371. - Lot dimensions; setbacks. (Red is Ord. 21-009)

- (a) The following minimum dimensions apply for lots with access to public water and sewer:
 - (1) Minimum area of ~~10,000~~ 8,000 sq. ft. for a single lot, when not in a zoned area of Anderson County. In zoned areas, the applicable minimum area requirements of the zoning ordinance shall apply. **Conservation subdivisions minimum lot area of 5,000 sq. ft. for a single lot, when not in a zoned area of Anderson County.**
 - (2) For twin home lots, the minimum combined total area of both lots must be at least ~~10,000~~ 8,000 sq. ft. and each lot must have a minimum area of ~~5,000~~ 3,850 sq. ft. when not in a zoned area of the county. In zoned areas, the applicable minimum area requirements of the zoning ordinance shall apply. **Conservation subdivisions minimum lot area of 5,000 sq. ft. for twin home lots, each twin home lot must have minimum area of 2,500 sq. ft. when not in a zoned area of Anderson County.**
 - (3) Minimum width of 60 feet between side lot lines measured at the front setback line. Minimum width for corner lots shall be measured from the side road setback line, rather than the side lot line to accommodate the need for additional width on corner lots. **Conservation subdivisions minimum lot width of 40 feet at the front setback line and minimum lot road frontage at the road right of way of 20 feet. For a twin-home lot, the minimum lot width is 20 feet for each dwelling unit of the twin home.**
 - (4) Minimum depth as required to meet minimum area requirements as specified in subsection (a)(1) and (3) of this section.
 - (5) Minimum rear setback of ~~15~~ ten feet from rear property line for a single family residence or a twin home. **Conservation subdivisions minimum rear setback of 5 feet.**
 - (6) Minimum side setback of ~~15~~ eight feet from the lot line shall be maintained on each side of a twin home and on both sides of a single family dwelling. Side setbacks on corner lots shall be equal to half the distance required for the front setback. **Conservation subdivisions minimum side setback of 5 feet and drainage easements of 5 feet at side property lines (drainage easements can be placed within the minimum side setback).**
 - (7) **For Conservation Subdivisions building setback shall be a minimum of 30 feet for all lots abutting the perimeter buffer.**

ORDINANCE NO. 2021-046

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN ANDERSON COUNTY, SOUTH CAROLINA AND [PROJECT POLLY] WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF TAXES, INCLUDING THE PROVISION OF CERTAIN SPECIAL SOURCE CREDITS; 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 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, pursuant to the FILOT Act, and in order to induce investment in the County, the County Council adopted on July 20, 2021 an inducement resolution (the “*Inducement Resolution*”) with respect to certain proposed investment by [PROJECT POLLY], a _____ limited liability company (the “*Company*”) (which was known to the County at the time as “*Project Polly*”), with respect to the acquisition, construction, and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a new distribution/manufacturing facility in the County (collectively, the “*Project*”); and

WHEREAS, the Company has represented that the Project will involve an investment of approximately \$17,907,000 in the County and the expected creation by the Company’s tenant of 76 new, full-time jobs at the Project, all the Investment Period (as such term is defined in the hereinafter defined Fee Agreement; 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, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, pursuant to the Inducement Agreement, the County has agreed to, among other things, (a) enter into a Fee in Lieu of Tax and Special Source Credit Agreement with the Company (the “*Fee Agreement*”), whereby the County would provide therein for a payment of a fee-in-lieu-of taxes by the Company with respect to the Project, and (b) provide for certain infrastructure credits to be claimed by the Company against its payments of fees-in-lieu-of taxes with respect to the Project pursuant to Section 4-1-175 of the Multi-County Park Act; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Fee 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 are an appropriate instrument to be executed and delivered or approved by the County for the purposes intended;

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

Section 1. Based on information supplied by the Company, 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 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;

(c) 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;

(d) 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

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

Section 2. The form, terms and provisions of the Fee 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 Fee Agreement was set out in this Ordinance in its entirety. The Chairman of County Council is hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement 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 Fee Agreement to be delivered to the Company and cause a copy of the same to be delivered to the Anderson County Auditor, Assessor and Treasurer. The Fee Agreement 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, upon advice of counsel, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

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 Fee Agreement 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.

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.

ANDERSON COUNTY, SOUTH CAROLINA

By: _____
Tommy Dunn, Chairman
Anderson County Council

Attest:

By: _____
Rusty Burns, County Administrator
Anderson County, South Carolina

By: _____
Seth A. Riddley, Assistant Clerk to Council
Anderson County, South Carolina

Approved as to form:

By: _____
Leon C. Harmon, County Attorney
Anderson County, South Carolina

First Reading: _____, 2021
Second Reading: _____, 2021
Third Reading: _____, 2021
Public Hearing: _____, 2021

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.

Seth A. Riddley, Assistant Clerk to County Council,
Anderson County, South Carolina

Dated: _____, 2021

**FEE IN LIEU OF TAX AND
SPECIAL SOURCE CREDIT AGREEMENT**

Between

ANDERSON COUNTY, SOUTH CAROLINA

and

[PROJECT POLLY]

Dated as of _____, 2021

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SUMMARY OF CONTENTS OF FEE IN LIEU OF TAX AGREEMENT

As permitted under Section 12-44-55(B), Code of Laws of South Carolina 1976, as amended (the “Code”), the parties have agreed to waive the requirements of Section 12-44-55 of the Code. The following is a summary of the key provisions of this Fee in Lieu of Tax and Special Source Credit Agreement. This summary is inserted for convenience only and does not constitute a part of this Fee in Lieu of Tax and Special Source Credit Agreement or a summary compliant with Section 12-44-55 of the Code.

Company Name:	[PROJECT POLLY]	Project Name:	Project Polly
Projected Investment:	\$17,907,000	Projected Jobs:	76
Location (street):	<i>to be provided</i>	Tax Map No.:	<i>to be provided</i>
1. FILOT			
Required Investment:	\$17,907,000		
Investment Period:	5 years	Ordinance No./Date:	
Assessment Ratio:	6%	Term (years):	30 years
Fixed Millage:	320.5 mills	Net Present Value (if yes, discount rate):	
Clawback information:			
2. MCIP			
Included in an MCIP:	To be included in Anderson/Greenville Park (2010)		
If yes, Name & Date:			
3. SSC			
Total Amount:			
No. of Years	20 years		
Yearly Increments:	70% years 1 – 5; 50% years 6 – 10; 30% years 11 - 20		
Clawback information:	If the Contract Minimum Investment Requirement and the Contract Minimum Jobs Creation Requirement are both not made during the Standard Investment Period, the SSC is reduced to 30%; if the Contract Minimum Investment Requirement and the Contract Minimum Jobs Creation Requirement are both made by the 7 th year, the SSC will return to 50% for years 8 – 10 and then 30% for years 11-20		
4. Other information			

FEE IN LIEU OF TAX AGREEMENT

THIS FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT (the “*Fee Agreement*”) 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 (the “*State*”), acting by and through the Anderson County Council (the “*County Council*”) as the governing body of the County, and _____, a _____ organized and existing under the laws of the State of _____ (the “*Company*”).

RECITALS

1. Title 12, Chapter 44 (the “*FILOT Act*”), Code of Laws of South Carolina, 1976, as amended (the “*Code*”), authorizes the County to (a) induce industries to locate in the State; (b) encourage industries now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (c) enter into a fee agreement with entities meeting the requirements of the FILOT Act, which identifies certain property of such entities as economic development property and provides for the payment of a fee in lieu of tax with respect to such property.

2. Sections 4-1-170 and 12-44-70 of the Code authorize the County to provide special source revenue credit (“*Special Source Revenue Credit*”) financing secured by and payable solely from revenues of the County derived from payments in lieu of taxes for the purposes set forth in Section 4-29-68 of the Code, namely: the defraying of 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 but not limited to machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County (collectively, “*Infrastructure*”).

3. The Company (as a Sponsor, within the meaning of the FILOT Act) desires to provide for the acquisition and construction of the Project (as defined herein) to constitute a manufacturing facility in the County for automotive parts.

4. Based on information supplied by the Company, the County Council has evaluated the Project based on relevant criteria that include, but are not limited to, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created or maintained, and the anticipated costs and benefits to the County. Pursuant to Section 12-44-40(H)(1) of the FILOT Act, the County finds that: (a) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project will give rise to no pecuniary liability of the County or any incorporated municipality therein and to no charge against their general credit or taxing powers; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

5. The Project is located, or if not so located as of the date of this Fee Agreement the County intends to use its best efforts to so locate the Project, in a joint county industrial or business park created with an adjoining county in the State pursuant to agreement entered into pursuant to Section 4-1-170 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution.

6. By enactment of an Ordinance on _____, 20__, the County Council has authorized the County to enter into this Fee Agreement with the Company which classifies the Project as Economic Development Property under the FILOT Act and provides for the payment of fees in lieu of taxes and the

provision of Special Source Credits to reimburse the Company for payment of the cost of certain Infrastructure in connection with the Project, all as further described herein.

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

ARTICLE I

DEFINITIONS

Section 1.01 Definitions

The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

“Administration Expenses” shall mean the reasonable and necessary expenses incurred by the County with respect to this Fee 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.

“Affiliate” shall mean any corporation, limited liability company, partnership or other entity which owns all or part of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or which is owned in whole or in part by the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or by any partner, shareholder or owner of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as well as any subsidiary, affiliate, individual or entity who bears a relationship to the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

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

“Commencement Date” shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date shall not be later than the last day of the property tax year which is three (3) years from the year in which the County and the Company enter into this Fee Agreement.

“Company” shall mean _____, a _____, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Company.

“Condemnation Event” shall mean any act of taking by a public or quasi-public authority through condemnation, reverse condemnation or eminent domain.

“Contract Minimum Investment Requirement” shall mean, with respect to the Project, investment by the Company and any Sponsor Affiliates of at least \$17,907,000 in Economic Development Property subject (non-exempt) to *ad valorem* taxation (in the absence of this Fee Agreement).

“Contract Minimum Jobs Creation Requirement” shall mean, with respect to the Project, seventy-six (76) new full-time jobs (with benefits) with average wages at or exceeding \$20.66 per hour.

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

“County Administrator” shall mean the Anderson County Administrator, or the person holding any successor office of the County.

“County Assessor” shall mean the Anderson County Assessor, or the person holding any successor office of the County.

“County Auditor” shall mean the Anderson County Auditor, or the person holding any successor office of the County.

“County Council” shall mean Anderson County Council, the governing body of the County.

“County Treasurer” shall mean the Anderson County Treasurer, or the person holding any successor office of the County.

“Defaulting Entity” shall have the meaning set forth for such term in Section 6.02(a) hereof.

“Deficiency Amount” shall have the meaning set forth for such term in Section 4.03(a) hereof.

“Department” shall mean the South Carolina Department of Revenue.

“Diminution in Value” in respect of the Project shall mean any reduction in the value, using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.01 of this Fee Agreement, of the items which constitute a part of the Project and which are subject to FILOT Payments which may be caused by the Company’s or any Sponsor Affiliate’s removal and/or disposal of equipment pursuant to Section 4.04 hereof, or by its election to remove components of the Project as a result of any damage or destruction or any Condemnation Event with respect thereto.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the FILOT Act and this Fee Agreement, and selected and identified by the Company or any Sponsor Affiliate in its annual filing of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

“Equipment” shall mean machinery, equipment, furniture, office equipment, and other tangible personal property, together with any and all additions, accessions, replacements, and substitutions thereto or therefor.

“Event of Default” shall mean any event of default specified in Section 6.01 hereof.

“Exemption Period” shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable portion of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year’s investment made during the Investment Period.

“Fee Agreement” shall mean this Fee in Lieu of Tax and Special Source Credit Agreement.

“FILOT” or **“FILOT Payments”** shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

“FILOT Act” shall mean Title 12, Chapter 44, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“FILOT Act Minimum Investment Requirement” shall mean, with respect to the Project, an investment of at least \$2,500,000 by the Company, or of at least \$5,000,000 by the Company and any Sponsor Affiliates in the aggregate, in Economic Development Property.

“Improvements” shall mean improvements to the Land, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor.

“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.

“Investment Period” shall mean, and shall be equal to, the Standard Investment Period.

“Land” means the land upon which the Project will be located, as described in Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with Section 3.01(c) hereof.

“MCIP” shall mean (i) the joint county industrial park established pursuant to the terms of the MCIP 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 MCIP Act, or any successor provision, with respect to the Project.

“MCIP Act” shall mean Title 4, Chapter 1, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“MCIP Agreement” shall mean the Agreement for the Development of a Joint County Industrial and Business Park (2010 Park) dated as of December 1, 2010, as amended, between the County and Greenville County, South Carolina, as the same may be further 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 Special Source Credits to the Company hereunder.

“Phase” or ***“Phases”*** in respect of the Project shall mean that the components of the Project are placed in service during more than one year during the Investment Period, and the word “Phase” shall therefore refer to the applicable portion of the Project placed in service in a given year during the Investment Period.

“Project” shall mean the Land and all the Equipment and Improvements that the Company determines to be necessary, suitable or useful for the purposes described in Section 2.02(b) hereof, to the extent determined by the Company and any Sponsor Affiliate to be a part of the Project and placed in service during the Investment Period, and any Replacement Property. Notwithstanding anything in this Fee Agreement to the contrary, the Project shall not include property which will not qualify for the FILOT pursuant to Section 12-44-110 of the FILOT Act, including without limitation property which has been subject to *ad valorem* taxation in the State prior to commencement of the Investment Period; provided, however, the Project may include (a) modifications which constitute an expansion of the real property portion of the Project and (b) the property allowed pursuant to Section 12-44-110(2) of the FILOT Act.

“Removed Components” shall mean components of the Project or portions thereof which the Company or any Sponsor Affiliate in its sole discretion, elects to remove from the Project pursuant to Section 4.04 hereof or as a result of any Condemnation Event.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment or any Improvement previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement to the fullest extent that the FILOT Act permits.

“Special Source Credits” shall mean the annual special source credits provided to the Company pursuant to Section 4.02 hereof.

“Sponsor Affiliate” shall mean an entity that joins with the Company and that participates in the investment in, or financing of, the Project and which meets the requirements under the FILOT Act to be entitled to the benefits of this Fee Agreement with respect to its participation in the Project, all as set forth in Section 5.13 hereof.

“Standard Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years after the Commencement Date.

“State” shall mean the State of South Carolina.

“Termination Date” shall mean, with respect to each Phase of the Project, the end of the last day of the property tax year which is the 29th year following the first property tax year in which such Phase of the Project is placed in service; provided, that the intention of the parties is that the Company will make at least 30 annual FILOT Payments under Article IV hereof with respect to each Phase of the Project; and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date shall mean the date of such termination.

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

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

Section 1.02 **Project-Related Investments**

The term “investment” or “invest” as used herein shall include not only investments made by the Company and any Sponsor Affiliates, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Company or any Sponsor Affiliate with respect to the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT Payments by the Company.

[End of Article I]

ARTICLE II

REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.01 Representations, Warranties, and Agreements of the County

The County hereby represents, warrants, and agrees as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Company, the Project constitutes a “project” within the meaning of the FILOT Act.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the FILOT Act and that the Company selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in the State.

(d) The millage rate set forth in Step 3 of Section 4.01(a) hereof is 320.5 mills, which is the millage rate in effect with respect to the location of the proposed Project as of June 30, 2021, as permitted under Section 12-44-50(A)(1)(d) of the FILOT Act.

(e) The County will use its reasonable best efforts to cause the Project to be located in a MCIP for a term extending at least until the end of the period of FILOT Payments against which a Special Source Credit is to be provided under this Fee Agreement.

Section 2.02 Representations, Warranties, and Agreements of the Company

The Company hereby represents, warrants, and agrees as follows:

(a) The Company is organized and in good standing under the laws of the State of _____, is duly authorized to transact business in the State, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to operate the Project as a “project” within the meaning of the FILOT Act as in effect on the date hereof. The Company intends to operate the Project for the purpose of _____, and for such other purposes that the FILOT Act permits as the Company may deem appropriate.

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

(d) The Company, together with any Sponsor Affiliates, will use commercially reasonable efforts to meet, or cause to be met the Contract Minimum Investment Requirement within the Investment Period.

[End of Article II]

ARTICLE III

COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.01 The Project

(a) The Company intends and expects, together with any Sponsor Affiliate, to (i) construct and acquire the Project, (ii) meet the Contract Minimum Investment Requirement, and (iii) create approximately seventy-six (76) new, full-time jobs (with benefits) within the Investment Period. The Company anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2022.

(b) Pursuant to the FILOT Act and subject to Section 4.03 hereof, the Company and the County hereby agree that the Company and any Sponsor Affiliates shall identify annually those assets which are eligible for FILOT Payments under the FILOT Act and this Fee Agreement, and which the Company or any Sponsor Affiliate selects for such treatment by listing such assets in its annual PT-300S form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary notwithstanding, the Company and any Sponsor Affiliates shall not be obligated to complete the acquisition of the Project. However, if the Company, together with any Sponsor Affiliates, does not meet the Contract Minimum Investment Requirement within the Investment Period, the provisions of Section 4.03 hereof shall control.

(c) The Company may add to the Land such real property, located in the same taxing District in the County as the original Land, as the Company, in its discretion, deems useful or desirable. In such event, the Company, at its expense, shall deliver an appropriately revised Exhibit A to this Fee Agreement, in form reasonably acceptable to the County.

Section 3.02 Diligent Completion

The Company agrees to use its reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.03 Filings and Reports

(a) Each year during the term of the Fee Agreement, the Company and any Sponsor Affiliates shall deliver to the County, the County Auditor, the County Assessor and the County Treasurer a copy of their most recent annual filings with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department.

(b) The Company shall cause a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor, and to their counterparts in the partner county to the MCIP Agreement, the County Administrator and the Department within thirty (30) days after the date of execution and delivery of this Fee Agreement by all parties hereto.

(c) Each of the Company and any Sponsor Affiliates agree to maintain complete books and records accounting for the acquisition, financing, construction, and operation of the Project. Such books and records shall (i) permit ready identification of the various Phases and components thereof; (ii) confirm the dates on which each Phase was placed in service; and (iii) include copies of all filings made

by the Company and any such Sponsor Affiliates in accordance with Section 3.03(a) or (b) above with respect to property placed in service as part of the Project.

[End of Article III]

ARTICLE IV
FILOT PAYMENTS

Section 4.01 FILOT Payments

(a) Pursuant to Section 12-44-50 of the FILOT Act, the Company and any Sponsor Affiliates, as applicable, are required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the FILOT Act, the County and the Company have negotiated the amount of the FILOT Payments in accordance therewith. The Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual FILOT Payments shall be in accordance with the following procedure (subject, in any event, to the procedures required by the FILOT Act):

Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using 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 FILOT Act defines such term, that the Company and any Sponsor Affiliates 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 fair market value of the real property for the first year of the Exemption Period remains the fair market value of the real property and Improvements for the life of the Exemption Period. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company and any Sponsor Affiliates if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the FILOT Act specifically disallows.

Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 29 years thereafter or such longer period of years in which the FILOT Act and this Fee Agreement permit the Company and any Sponsor Affiliates to make annual FILOT Payments.

Step 3: Use a millage rate of 320.5 mills during the Exemption Period against the taxable value to determine the amount of the FILOT Payments due during the Exemption Period on the applicable payment dates.

(b) In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Act and/or the herein-described FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof (without increasing the amount of incentives being afforded herein) and so as to afford the Company and any Sponsor Affiliates with the benefits to be derived herefrom, the intention of the County being to offer the Company and such Sponsor Affiliates a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Company and any Sponsor Affiliates shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company and such Sponsor Affiliates. Any amount determined to be due and owing to the County from the Company and such Sponsor Affiliates, with respect to a year or years for which the Company or such Sponsor Affiliates previously remitted FILOT Payments to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company or such Sponsor Affiliates would be entitled if the Economic Development Property was not and had not been Economic Development Property under the Act; and (ii) be reduced by the total amount of FILOT Payments the Company or such Sponsor Affiliates had made with respect to the Project pursuant to the terms hereof.

Section 4.02 Special Source Credits

(a) In accordance with and pursuant to Section 12-44-70 of the FILOT Act and Section 4-1-175 of the MCIP Act, in order to reimburse the Company for qualifying capital expenditures incurred for costs of the Infrastructure during the Standard Investment Period, the Company shall be entitled to receive, and the County agrees to provide, annual Special Source Credits against the Company's FILOT Payments for a period of thirty (30) consecutive years in an amount equal to ninety-five percent (95%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Standard Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement.

(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 a Special Source Credit is taken.

(c) In no event shall the aggregate amount of all Special Source Credits claimed by the Company exceed the amount expended 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 C.

(d) As provided in Section 4-29-68 of the Code, to the extent any Special Source Credit is taken against fee in lieu of tax payment on personal property, and the personal property is removed from the Project at any time during the term of this 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 shall be due for the two (2) years immediately following such removal.

(e) Each annual Special Source Credit shall be reflected by the County Auditor or other authorized County official or representative on each bill for FILOT Payments sent to the Company by the County for each applicable property tax year, by reducing such FILOT Payments otherwise due by the amount of the Special Source Credit to be provided to the Company for such property tax year.

(f) The Special Source Credits are payable solely from the FILOT Payments, are not secured by, or in any way entitled to, a pledge of the full faith, credit or taxing power of the County, are not an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation, are payable solely from a special source that does not include revenues from any tax or license, and are not a pecuniary liability of the County or a charge against the general credit or taxing power of the County.

(g) All fee-in-lieu of *ad valorem* taxes pursuant to the agreement received by the County for MCIP premises located in the County attributable to current MCIP property shall be distributed in accordance with Section 3 of Ordinance 2010-026 and Paragraph 7 of the MCIP Agreement. All fee-in-lieu of *ad valorem* taxes pursuant to the agreement received by the County for MCIP premises located in the County attributable to MCIP property added on and after November 16, 2020 shall be distributed, net of special source credits provided by the County pursuant to Section 4-1-175 (“Net Park Fees”) as follows: First, 15% of Net Park Fees shall be deposited to Bond Fund created by Ordinance 2018-042 and used as required or permitted thereby, Second, 35% of Net Park Fees, and any surplus money under Ordinance 2018-042, shall be deposited to the Capital Renewal and Replacement Fund of the County, and Third, remaining Net Park Fees shall be disbursed to each of the taxing entities in the County which levy an old *ad valorem* property tax in any of the areas comprising the County’s portion of the MCIP in the same percentage as is equal to that taxing entity’s percentage of the millage rate (and proportion of operating and debt service millage) being levied in the current tax year for property tax purposes.

Section 4.03 Failure to Achieve Minimum Investment and Jobs Creation Requirements

(a) Should the Contract Minimum Investment Requirement or the Contract Minimum Jobs Creation Requirement not be met by the Company by the end of the Standard Investment Period, any subsequent Special Source Credits shall be reduced to thirty percent (30%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement; except, however, if the Contract Minimum Investment Requirement and the Contract Minimum Jobs Creation Requirement are both met by the end of the seventh (7th) tax year following the Commencement Date, then the Special Source Credits going forward shall return to fifty percent (50%) for years 8 through 10 and thirty percent (30%) for years 11 through 20. Any portion of Special Source Credits lost because of a failure to meet the Contract Minimum Investment Requirement or the Contract Minimum Jobs Creation Requirement by the end of the Standard Investment Period shall not be recoverable by the Company or its Sponsor Affiliates.

(b) As a condition to the FILOT benefit provided herein, the Company agrees to provide the County Administrator, the County Assessor, the County Auditor and the County Treasurer with an annual certification as to investment in the Project. Such certification shall be in substantially the form attached hereto as Exhibit B, and shall be due no later than the May 1 following the immediately preceding December 31 of each year during the Investment Period.

Section 4.04 Removal of Equipment

Subject, always, to the other terms and provisions of this Fee Agreement, the Company and any Sponsor Affiliates shall be entitled to remove and dispose of components of the Project from the Project in its sole discretion with the result that said components shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement. Economic Development Property is disposed of only when it is scrapped or sold or removed from the Project. If it is removed from the Project, it is subject to *ad valorem*

property taxes to the extent the Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.05 FILOT Payments on Replacement Property

If the Company or any Sponsor Affiliate elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Company or any Sponsor Affiliate otherwise utilizes Replacement Property, then, pursuant and subject to the provisions of Section 12-44-60 of the FILOT Act, the Company or such Sponsor Affiliate shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest Economic Development Property subject to the FILOT, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development Property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is entitled to treatment under the Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the FILOT shall be recorded using its income tax basis, and the calculation of the FILOT shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the FILOT.

Section 4.06 Reductions in Payment of Taxes Upon Diminution in Value; Investment Maintenance Requirement

In the event of a Diminution in Value of the Economic Development Property, the FILOT Payment in Lieu of Taxes with regard to the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property as determined pursuant to Step 1 of Section 4.01(a) hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project remaining in the County based on the original income tax basis thereof (that is, without regard to depreciation), is less than the FILOT Act Minimum Investment Requirement, then beginning with the first payment thereafter due hereunder and continuing until the Termination Date, the Project shall no longer be entitled to the incentive provided in Section 4.01, and the Company and any Sponsor Affiliate shall therefore commence to pay regular *ad valorem* taxes thereon, calculated as set forth in Section 4.01(b) hereof.

[End of Article IV]

ARTICLE V

PARTICULAR COVENANTS AND AGREEMENTS

Section 5.01 Cessation of Operations

Notwithstanding any other provision of this Fee Agreement, each of the Company and any Sponsor Affiliates acknowledges and agrees that County's obligation to provide the FILOT incentive may end, and this Fee Agreement may be terminated by the County, at the County's sole discretion, if the Company ceases operations at the Project. For purposes of this Section, "ceases operations" means closure of the facility or the cessation of production and shipment of products to customers for a continuous period of twelve (12) months. The provisions of Section 4.03 hereof relating to retroactive payments shall apply, if applicable, if this Fee Agreement is terminated in accordance with this Section prior to the end of the Investment Period. Each of the Company and any Sponsor Affiliates agrees that if this Fee Agreement is terminated pursuant to this subsection, that under no circumstance shall the County be required to refund or pay any monies to the Company or any Sponsor Affiliates.

Section 5.02 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, and shall be subject to the provisions of Section 5.03 hereof.

Section 5.03 Confidentiality

The County acknowledges and understands that the Company and any Sponsor Affiliates may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (herein "Confidential Information"). In this regard, the Company and any Sponsor Affiliates may clearly label any Confidential Information delivered to the County "Confidential Information." The County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall disclose or otherwise divulge any such clearly labeled Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law. Each of the Company and any Sponsor Affiliates acknowledge that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. In the event that the County is required to disclose any Confidential Information obtained from the Company or any Sponsor Affiliates to any third party, the County agrees to provide the Company and such Sponsor Affiliates with as much advance notice as is reasonably possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Company and such Sponsor Affiliates to obtain judicial or other relief from such disclosure requirement.

Section 5.04 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 (it being intended herein that any obligations of the County with respect to the Special Source Credits shall be payable only from FILOT Payments received from or

payable by the Company or any Sponsor Affiliates); provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

Section 5.05 Mergers, Reorganizations and Equity Transfers

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

Section 5.06 Indemnification Covenants

(a) Notwithstanding any other provisions in this Fee Agreement or in any other agreements with the County, the Company agrees to indemnify, defend and save the County, its County Council members, elected officials, officers, 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 or the Land by the Company or any Sponsor Affiliate, their members, officers, shareholders, employees, servants, contractors, and agents during the term of this Fee Agreement, and, the Company further, shall indemnify, defend and save the Indemnified Parties harmless against and from all claims arising during the term of this Fee Agreement from (i) entering into and performing its obligations under this Fee Agreement, (ii) any condition of the Project, (iii) any breach or default on the part of the Company or any Sponsor Affiliate in the performance of any of its obligations under this Fee Agreement, (iv) any act of negligence of the Company or any Sponsor Affiliate or its agents, contractors, servants, employees or licensees, (v) any act of negligence of any assignee or lessee of the Company or any Sponsor Affiliate, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Company or any Sponsor Affiliate, or (vi) any environmental violation, condition, or effect with respect to the Project. 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 Fee Agreement, or the undertakings required of the County hereunder, by reason of the granting of the FILOT, by reason of the execution of this Fee Agreement, by the reason of the performance of any act requested of it by the Company or any Sponsor Affiliate, or by reason of the County’s relationship to the Project or by the operation of the Project by the Company or any Sponsor Affiliate, 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 attributable to (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Fee Agreement by the County.

(c) Notwithstanding anything in this Fee 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 any Sponsor Affiliate, shall survive any termination of this Fee Agreement.

Section 5.07 Qualification in State

Each of the Company and any Sponsor Affiliates warrant 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 5.08 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 elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any elected official, officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any elected official, 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 5.09 Assignment, Leases or Transfers

The County agrees that the Company and any Sponsor Affiliates may at any time (a) transfer all or any of their rights and interests under this Fee Agreement or with respect to all or any part of the Project, or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing or other entity with respect to this Fee Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or any Sponsor Affiliate or operates such assets for the Company or any Sponsor Affiliate or is leasing the portion of the Project in question from the Company or any Sponsor Affiliate. In order to preserve the FILOT benefit afforded hereunder with respect to any portion of the Project so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to an Affiliate of the Company or of any Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company and any Sponsor Affiliates, as applicable, shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County in its sole discretion and as evidenced by resolution passed by the County Council; (ii) except when a financing entity which is the income tax owner of all or part of the Project is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Company or any Sponsor Affiliate, as the case may be, hereunder, or when the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Company and any Sponsor Affiliates hereunder; (iii) to the

extent the transferee or financing entity shall become obligated to make FILOT Payments hereunder, the transferee shall assume the then current basis of, as the case may be, the Company or any Sponsor Affiliates (or prior transferee) in the portion of the Project transferred; (iv) the Company or applicable Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department a true and complete copy of any such transfer agreement; and (v) the Company, the Sponsor Affiliates and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent when required under this Section, and at the expense of the Company or any Sponsor Affiliate, as the case may be, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or such Sponsor Affiliate under this Fee Agreement and/or any release of the Company or such Sponsor Affiliate pursuant to this Section.

Each of the Company and any Sponsor Affiliates acknowledges that such a transfer of an interest under this Fee Agreement or in the Project may cause all or part of the Project to become ineligible for the FILOT benefit afforded hereunder or result in penalties under the FILOT Act absent compliance by the Company and any Sponsor Affiliates with the Transfer Provisions.

Section 5.10 Administration Expenses

The Company agrees to pay any Administration Expenses to the County when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is forty-five (45) days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's or Indemnified Party's right to receive such payment, specifying the nature of such expense and requesting payment of same.

Section 5.11 Priority Lien Status

The County's right to receive FILOT Payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the FILOT Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code.

Section 5.12 Interest; Penalties

In the event the Company or any Sponsor Affiliate should fail to make any of the payments to the County required under this Fee Agreement, then the item or installment so in default shall continue as an obligation of the Company or such Sponsor Affiliate until the Company or such Sponsor Affiliate shall have fully paid the amount, and the Company and any Sponsor Affiliates agree, as applicable, to pay the same with interest thereon at a rate, unless expressly provided otherwise herein and in the case of FILOT Payments, of 5% per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT Payments, at the rate for non-payment of *ad valorem* taxes under State law and subject to the penalties the law provides until payment.

Section 5.13 Sponsor Affiliates

The Company may designate from time to time any Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(20) and 12-44-130 of the FILOT Act, which Sponsor Affiliates shall join with the Company and make investments with respect to the Project, or participate in the financing of such

investments, and shall agree to be bound by the terms and provisions of this Fee Agreement pursuant to the terms of a written joinder agreement with the County and the Company, in form reasonably acceptable to the County. The Company shall provide the County and the Department with written notice of any Sponsor Affiliate designated pursuant to this Section within ninety (90) days after the end of the calendar year during which any such Sponsor Affiliate has placed in service any portion of the Project, in accordance with Section 12-44-130(B) of the FILOT Act.

[End of Article V]

ARTICLE VI

DEFAULT

Section 6.01 Events of Default

The following shall be “Events of Default” under this Fee Agreement, and the term “Event of Default” shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company or any Sponsor Affiliate to make the FILOT Payments described in Section 4.01 hereof, or any other amounts payable to the County under this Fee Agreement when due, which failure shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; provided, however, that the Company and any Sponsor Affiliates shall be entitled to all redemption rights granted by applicable statutes; or

(b) A representation or warranty made by the Company or any Sponsor Affiliate hereunder which is deemed materially incorrect when deemed made; or

(c) Failure by the Company or any Sponsor Affiliate to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of thirty (30) days after written notice from the County to the Company and such Sponsor Affiliate specifying such failure and requesting that it be remedied, unless the Company or such Sponsor Affiliate shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Company or such Sponsor Affiliate is diligently pursuing corrective action; or

(d) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of thirty (30) days after written notice from the Company to the County and any Sponsor Affiliates specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 6.02 Remedies Upon Default

(a) Whenever any Event of Default by the Company or any Sponsor Affiliate (the “*Defaulting Entity*”) shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions as to the Defaulting Entity, only:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder.

In no event shall the Company or any Sponsor Affiliate be liable to the County or otherwise for monetary damages resulting from the Company’s (together with any Sponsor Affiliates) failure to meet the Contract Minimum Investment Requirement other than as expressly set forth in this Fee Agreement.

In addition to all other remedies provided herein, the failure to make FILOT Payments shall give rise to a lien for tax purposes as provided in Section 12-44-90 of the FILOT Act. In this regard, and

notwithstanding anything in this Fee Agreement to the contrary, the County may exercise the remedies that general law (including Title 12, Chapter 49 of the Code) provides with regard to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Company and any Sponsor Affiliate may take one or more of the following actions:

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

Section 6.03 Reimbursement of Legal Fees and Expenses and Other Expenses

Upon the occurrence of an Event of Default hereunder by the Company or any Sponsor Affiliate, should the County be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 6.04 No Waiver

No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

[End of Article VI]

ARTICLE VII
MISCELLANEOUS

Section 7.01 Notices

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

If to the Company:

[PROJECT POLLY]

Attn: _____

With a copy to:

Nexsen Pruet, LLC
Attn: James K. Price
104 South Main Street, Suite 900
Greenville, South Carolina 29601

If to the County:

Anderson County
Attn: Rusty Burns, County Administrator
P.O. Box 8002
Anderson, South Carolina 29622-8002

With a copy to:

Anderson County Attorney
P.O. Box 8002
Anderson, South Carolina 29622-8002

Section 7.02 Binding Effect

This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Company and any Sponsor Affiliates, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 7.03 Counterparts

This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 7.04 Governing Law

This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 7.05 Headings

The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 7.06 Amendments

The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 7.07 Further Assurance

From time to time, and at the expense of the Company and any Sponsor Affiliates, the County agrees to execute and deliver to the Company and any such Sponsor Affiliates such additional instruments as the Company or such Sponsor Affiliates may reasonably request and as are authorized by law and reasonably within the purposes and scope of the FILOT Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 7.08 Invalidity; Change in Laws

In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the FILOT Act, to the extent not inconsistent with any of the explicit terms hereof. If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Company and any Sponsor Affiliates with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company and any Sponsor Affiliates the strongest inducement possible, within the provisions of the FILOT Act, to locate the Project in the County. In case a change in the FILOT Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Company and any Sponsor Affiliates and the FILOT incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, and, if the County Council so decides, to provide the Company and any Sponsor Affiliates with the benefits of such change in the FILOT Act or South Carolina laws.

Section 7.09 Termination by Company

The Company is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with thirty (30) days' written notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party

hereto (including without limitation any amounts owed with respect to Section 4.03 hereof); and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to *ad valorem* taxation or such other taxation or fee in lieu of taxation that would apply absent this Fee Agreement. The Company's obligation to make FILOT Payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 7.10 Entire Understanding

This Fee 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 Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 7.11 Waiver

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

Section 7.12 Business Day

In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or 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.

Section 7.13 Facsimile/Scanned Signature

The parties agree that use of a fax or scanned signature and the signatures, initials, and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signature, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

[End of Article VII]

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

ANDERSON COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Tommy Dunn, Chairman of County Council,
Anderson County, South Carolina

ATTEST:

Seth A. Riddley, Assistant Clerk to County Council,
Anderson County, South Carolina

[Signature Page 1 to Fee in Lieu of Tax and Special Source Credit Agreement]

[PROJECT POLLY]

By: _____
Its: _____

[Signature Page 2 to Fee in Lieu of Tax and Special Source Credit Agreement]

EXHIBIT A

LEGAL DESCRIPTION

[Insert legal description here]

EXHIBIT B

INVESTMENT CERTIFICATION

I _____, the _____ of _____ (the "**Company**"), do hereby certify in connection with Section 4.03 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 20__ between Anderson County, South Carolina and the Company (the "**Agreement**"), as follows:

(1) The total investment made by the Company and any Sponsor Affiliates in the Project during the calendar year ending December 31, 20__ was \$_____.

(2) The cumulative total investment made by the Company and any Sponsor Affiliates in the Project from the period beginning _____, 20__ (that is, the beginning date of the Investment Period) and ending December 31, 20__, is \$_____.

(3) The total number of employees of the Company at the Project as of December 31, 20__ is ____ and their average wage exceeds \$29.19 per hour.

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__.

Name: _____
Its: _____

EXHIBIT C

INFRASTRUCTURE INVESTMENT CERTIFICATION

I _____, the _____ of _____ (the "**Company**"), do hereby certify in connection with Section 4.02 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 20__ between Anderson County, South Carolina and the Company (the "**Agreement**"), as follows:

(1) As of the date hereof, the aggregate amount of Special Source Credits previously received by the Company and any Sponsor Affiliates is \$_____.

(2) As of December 31, 20__, the aggregate amount of investment in costs of Infrastructure incurred by the Company and any Sponsor Affiliates during the Investment Period is not less than \$_____.

(3) **[Use only if expenditures for personal property will be used to account for Special Source Credits.]** Of the total amount set forth in (2) above, \$_____ pertains to the investment in personal property, including machinery and equipment, at the Project. The applicable personal property, and associated expenditures, are listed below:

Personal Property Description

Investment Amount

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__.

Name: _____

Its: _____

ORDINANCE NO. 2021-047

**AN ORDINANCE TO AMEND AN AGREEMENT FOR THE
DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL AND
BUSINESS PARK (2010 PARK) OF ANDERSON AND
GREENVILLE COUNTIES SO AS TO ENLARGE THE PARK**

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

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

WHEREAS, in connection with certain incentives being offered by Greenville County, it is now desired that the boundaries of the Park be enlarged to include parcels in Greenville County;

NOW, THEREFORE, be it ordained by Anderson County Council that Exhibit A to the Agreement is and shall be amended and revised to include property located in Greenville County described in the schedule attached to this Ordinance, and, pursuant to Section 3(B) of the Agreement, at and after adoption by Greenville County of a corresponding ordinance, the Agreement shall be deemed amended to so include the property and Exhibit A as so revised, without further action by either county.

DONE in meeting duly assembled this __ day of _____, 2021.

ANDERSON COUNTY, SOUTH CAROLINA

(SEAL)

ATTEST:

Rusty Burns
Anderson County Administrator
Anderson County Council

Tommy Dunn, Chairman

Seth A.
Clerk to Council

APPROVED AS TO FORM:

Leon C. Harmon
Anderson County Attorney

First Reading: _____, 2021
Second Reading: _____, 2021
Third Reading: _____, 2021
Public Hearing: _____, 2021

Addition to Exhibit A 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

PARCEL 1:

All that certain piece, parcel or tract of land situate, lying and being in the County of Greenville, State of South Carolina, on the western side of Neely Ferry Road, containing 12.690 gross acres, more or less, identified as Tract Two, and shown on a survey entitled "As-Built Survey & Division For The Alexander Family Partnership" prepared by Carolina Survey & Mapping, dated March 30, 2004, revised June 11, 2010, and recorded in the Greenville County ROD Office in Plat Book 1105 at Page 10, reference to which is made for the complete metes and bounds description thereof.

TOGETHER WITH the rights and privileges as set forth in that certain Sanitary Sewer Easement granted by the South Carolina Department of Corrections to the Alexander Family Partnership dated July 22, 2009, and recorded November 2, 1999, in the Greenville County ROD Office in Deed Book 1876 at Page 626.

This being a portion of the property conveyed to the Grantor herein by deed of J. A. Patton and Mary W. Patton dated and recorded October 7, 1998, in the Greenville County ROD Office in Deed Book 1791 at Page 964.

TMS: P/O 0574.02-01-010.06

PARCEL 2:

ALL of that certain piece, parcel or lot of land, situate, lying and being in the County of Greenville, State of South Carolina, and according to a Plat prepared of said property by C. O. Riddle, R. L. S., November, 1972, and recorded in the R.M.C. Office for Greenville County, South Carolina, in Plat Book 4Y, at Page 20, having the following courses and distances, to-wit:

BEGINNING at an iron pin in or near the center of Neely Ferry Road, front corner of lot property of the Grantors and Rice and running thence with said road, S. 6-07 W. 254 feet to an iron pin in said road; thence, N. 69-56 W. 710.2 feet to an iron pin; thence, N. 9-21 E. 301.6 feet to an iron pin; thence, S. 65-53 E. 706.8 feet to an iron pin in or near the center of Neely Ferry Road, the point of beginning.

This being apportion of the property conveyed to the Grantors herein by deed recorded in the R.M.C. Office for Greenville County, South Carolina, in Deed Book 368, at Page 488. (See also Deed Book 871, at Page 158)

TMS: P/O 0574.02-01-010.03

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 majority approval, by the County Council at 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.

Dated: _____, 2021

Seth A. Riddley Assistant Clerk, Anderson County Council

ORDINANCE NO. 2021-048

AN ORDINANCE AUTHORIZING THE SALE OF ANDERSON COUNTY OWNED CAPACITY IN THE TOWN OF WILLIAMSTON WASTEWATER TREATMENT PLANT AND ANDERSON COUNTY SEWER INFRASTRUCTURE TO SERVE THE FOREST HILLS SUBDIVISION; AND OTHER MATTERS RELATED THERETO.

WHEREAS, 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 the Anderson Country Council, has the authority under Title 4 of the Code of Laws of South Carolina, 1976, as amended, to among other things make and execute contracts and dispose of real and personal property;

WHEREAS, by Agreement dated January 2, 1987, the County acquired allocated capacity in the Town of Williamston Wastewater Treatment Plant (“Williamston WWTP”) of 300,000 gallons per day;

WHEREAS, the County desires to return its capacity allocation in the Williamston WWTP to the Town of Williamston upon the terms contained herein;

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

1. Anderson County hereby agrees to return its capacity of 300,000 gallons per day in the Williamston WWTP to the Town of Williamston in return for payment by the Town of \$300,000.00. The County Administrator and the County Attorney are hereby directed to prepare appropriate documentation for the transaction and to execute such documentation on behalf of the County.
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 July, 2021.

ATTEST:

Rusty Burns
Anderson County Administrator

Seth A. Riddley
Assistant Clerk to Council

FOR ANDERSON COUNTY:

Tommy Dunn, District #5, Chairman

APPROVED AS TO FORM:

Leon C. Harmon
Anderson County Attorney

1st Reading: July 20, 2021

2nd Reading: _____

3rd Reading: _____

Public Hearing: _____

ORDINANCE NO. 2021-049
AN ORDINANCE AUTHORIZING THE EXECUTION AND
DELIVERY OF A SPECIAL SOURCE CREDIT AGREEMENT
BETWEEN ANDERSON COUNTY, SOUTH CAROLINA AND
ROBERT BOSCH LLC; AND OTHER MATTERS RELATING
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 4, Chapter 1 and Title 4, Chapter 29 (jointly hereinafter the "Act") of the Code of Laws of South Carolina, 1976, as amended (the "Code"), to acquire, construct, or cause to be acquired or constructed by lease or otherwise, properties (which such properties constitute "projects" as defined in the Act) and to enter into agreements with any industry or business providing for the construction, operation, maintenance and improvement of such projects; to enter into or allow financing agreements with respect to such projects; to provide for payment of a fee in lieu of taxes pursuant to the Act; and, to accept any grants for such projects through which powers the industrial development of the State of South Carolina (the "State") and will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, the County is authorized by the Act to provide special source revenue credits, as defined in the Act, with respect to any such project; and

WHEREAS, Robert Bosch LLC, is a company duly incorporated under the laws of the State of Illinois (the "Company") and has previously entered into a fee in lieu of tax agreement with the County dated as of December 1, 2017 and amended on December 1, 2018 (jointly as amended the "Fee Agreement") wherein the County agreed in Section 4.19 of the Fee Agreement to provide the Company with an infrastructure grant (the "Grant") to reimburse the Company for the cost of certain infrastructure, which costs have been incurred; and

WHEREAS, the Company and the County have agreed to convert the Grant to a Special Source Credit (the "SSC") pursuant to Section 4-1-175 and which SSC will be in addition to the special source credit granted to the Company pursuant to Section 4.18 of the Fee Agreement; and

WHEREAS, the County and the Company desire to execute a Special Source Credit Agreement (the "SSC Agreement") to amend the Fee Agreement and to provide for the SSC in addition to the special source credit granted in section 4.19 of the Fee Agreement; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the SSC Agreement by and between the County and the Company which includes the agreement for payment of a payment in lieu of tax in the Park (as defined in the Fee Agreement); and

WHEREAS, it appears that the instrument above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the

County for the purposes intended; and

WHEREAS, the County is authorized by the provisions of the Act to provide the SSC , secured by and payable solely from revenues of the County from payments in lieu of taxes in the Park pursuant to Article VIII, Section 13 of the South Carolina Constitution and the Act, for the purpose of defraying a portion of the cost of designing, acquiring, constructing, improving or expanding the infrastructure serving the County in order to enhance the economic development of the County.

NOW, THEREFORE, BE IT ORDAINED by Anderson County, South Carolina, as follows:

Section 1. In order to promote industry, develop trade and utilize and employ the manpower, agricultural products and natural resources of the State by assisting the Company to develop a manufacturing facility in the State, and acquire by acquisition or construction and various machinery, apparati, and equipment, all as a part of the Project to be utilized for the purpose of the development a facility for the manufacture of automotive and other parts, the execution and delivery of the SSC Agreement with the Company for the Project is hereby authorized, ratified and approved.

Section 2. Pursuant to the authority of the Act, there is hereby authorized to be provided, and shall be provided, the SSC of the County to the Company in the amount equal to \$644,344 Dollars, payable in three equal annual increments, beginning with the fee in lieu of tax payment from the Fee Agreement due on January 15, 2022. The SSC shall not constitute a general obligation or indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County.

Nothing in this ordinance shall be construed as an obligation or commitment by the County to expend any of its funds other than the portion of Fee Payments (as defined in the Fee Agreement) represented by the SSC provided by the County which shall be payable solely as a credit against Fee Payments due by the Company to the County for the Project (as defined in the Fee Agreement) in the Park.

Section 4. The form, terms and provisions of the SSC Agreement presented to this meeting and filed with the Clerk of the County Council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the SSC Agreement were set out in this Ordinance in its entirety. The Chairman of County Council and the Clerk of the County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the SSC Agreement in the name and on behalf of the County, and thereupon to cause the SSC Agreement to be delivered to the Company. The SSC Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, their execution thereof to constitute conclusive evidence of their approval of any and all changes or

revisions therein from the form of SSC Agreement now before this meeting.

Section 5. The Chairman of County Council, the County Administrator and the Clerk of the County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the SSC Agreement and the performance of all obligations of the County under and pursuant to the SSC Agreement and this Ordinance.

Section 6. 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 7. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

Passed and approved this ____ day of ____ 2021

ANDERSON COUNTY, SOUTH CAROLINA

By: _____
Tommy Dunn, Chairman of County Council
Anderson County, South Carolina

ATTEST:

By: _____
Rusty Burns, County Administrator
Anderson County, South Carolina

By: _____
Seth A. Riddley, Assistant Clerk to County Council
Anderson County, South Carolina

APPROVED AS TO FORM:

By: _____
Leon C. Harmon
County Attorney

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

**ANDERSON COUNTY
ORDINANCE NO. 2021-050**

AN ORDINANCE AUTHORIZING A FEE-IN-LIEU-OF-TAX ARRANGEMENT ON BEHALF OF PROJECT NEW (THE “COMPANY”) PURSUANT TO A FEE-IN-LIEU-OF-TAX AGREEMENT BETWEEN ANDERSON COUNTY, SOUTH CAROLINA (THE “COUNTY”) AND THE COMPANY; AUTHORIZING A 5-YEAR EXTENSION OF THE INVESTMENT PERIOD FOR ALL INVESTMENTS OVER THE MINIMUM INVESTMENT REQUIREMENT; AUTHORIZING THE GRANTING OF CERTAIN INFRASTRUCTURE CREDITS TO THE COMPANY; AUTHORIZING THE CREATION OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK WITH GREENVILLE COUNTY; AND OTHER MATTERS RELATING TO THE FOREGOING.

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 the Code of Laws of the State of South Carolina, 1976, as amended (the “Code”), including, without limitation, Titles 4 and 12, including, particularly, Chapter 44 of Title 12 of the Code (collectively, the “Act”), and the case law of the Courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to prospective developers as inducements for economic development within the County; to acquire, or cause to be acquired, properties (which such properties constitute “projects” as defined in the Act) and to enter into agreements with any business to construct, operate, maintain and improve such projects; to enter into or allow financing agreements with respect to such projects; and, to accept any grants for such projects through which powers the industrial and business development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, tourism or other public benefits not otherwise provided locally; and

WHEREAS, the County is authorized by Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Code (the “Joint-County Industrial and Business Park Act”), to enter into agreements with one or more contiguous counties for the creation and operation of one or more joint-county industrial and business parks; and

WHEREAS, Project NEW (the “LLC”), a South Carolina limited liability company, together with one or more Sponsor Affiliates (as defined in the Act)(the LLC and Sponsor Affiliates, collectively referred to as “Project NEW” or the “Company” herein) is considering acquiring by construction or purchase certain land, buildings, furnishings, fixtures, machinery, apparati, and equipment, for the development of a manufacturing facility in the County (the “Project”), which will result in the investment of an expected Two Million Nine Hundred Twenty Five Thousand (\$2,925,000) in new investment in the County, all of which would be subject to the fee-in-lieu-of-tax addressed by this Agreement, all within the meaning of the Act

(the “Minimum Investment Requirement”), and the creation of an expected thirty two (32), but not fewer than twenty five (25) new, full-time jobs (the “Job Creation Requirement”), during the period beginning with the first day that real or personal property comprising the Project is purchased or acquired (expected to be in 2021) and ending five (5) years after the last day of the property tax year during which the Project is placed in service (expected to be in 2021) (the “Initial Investment Period”); and

WHEREAS, the County has determined that the Project would be aided by the availability of the assistance which the County might render through (1) the acquisition of the Project from the Company and the leasing of the Project to the Company pursuant to one or more lease agreements (each a “Lease Agreement”) or, alternatively, entering into a fee-in-lieu of tax agreement (“Fee Agreement”) with the Company with respect to the Project, under and pursuant to the Act (notwithstanding any other provision hereof, or of the Inducement Agreement authorized hereby, it is understood and agreed between the County and the Company that the possible use of a Lease Agreement to document and implement the new fee-in-lieu-of-tax arrangement for the Project, as described herein, refers to and would become applicable only in the event that a court of competent jurisdiction rules the provisions of Chapter 44 of Title 12 of the Code unconstitutional, invalid, or otherwise unenforceable); (2) the incentive of a negotiated fee-in-lieu of *ad valorem* taxes (a “FILOT”) as authorized by the Act; (3) the inclusion of the Project and the other real and personal property of the Company located at the Project site(s) in the County, in a joint-county industrial and business park which is either already in existence, or to be created by the County (the “Park” or the “Multi-County Industrial and Business Park” or “MCIP”); (4) the granting by the County to the Company of certain infrastructure credits, pursuant to Section 4-1-175 of the Code and other applicable provisions of the Act (the “Infrastructure Credits), to partially reimburse the Company for economic development infrastructure serving the County; and (5) the commitment by the County to certain other economic development incentives as an inducement to the Company to locate the Project in the County including, without limitation, the extension of the Initial Investment Period for an additional five (5) years (the “Extended Investment Period”) for investments in the Project if the Company has invested at least Two Million Nine Hundred Twenty Five Thousand Dollars (\$2,925,000) in the Project by the end of the Initial Investment Period; and, that the inducement will, to a great degree of certainty, result in the acquisition and construction of the Project in the County; and

WHEREAS, the County has given due consideration to the economic development impact of the Project, has found that the Project and the payments-in-lieu-of-taxes would be directly and substantially beneficial to the County, the taxing entities of the County, and the citizens and residents of the County, and that the Project would directly and indirectly benefit the general public welfare and serve a public purpose of the County by providing services, employment, recreation, promotion of tourism, or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality, or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development and welfare, creation of jobs, promotion of tourism, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within

the County and State is of paramount importance and that the benefits of the Project will be greater than the cost; and, has agreed to effect the issuance, execution and delivery of a Fee Agreement, with infrastructure credits, and an MCIP Agreement pursuant to this Ordinance of the County Council, and on the terms and conditions hereafter set forth:

NOW, THEREFORE, IT IS HEREBY ORDAINED by Anderson County, South Carolina, by and through the County Council, in meeting duly assembled, as follows:

Section 1. As contemplated by the Act and based on the representations of the Company as recited herein, it is hereby found, determined and declared by the County Council, as follows:

- (a) The Project will constitute a “project” as said term is referred to and defined in the Act, and will subserve the purposes and in all respects conform to the provisions and requirements of the Act;
- (b) It is anticipated that the Project will benefit the general public welfare of the County by providing employment, services, recreation, the creation of additional tax revenue, and other public benefits not otherwise provided locally;
- (c) Neither the Project, nor any documents or agreements entered into by the County in connection therewith will constitute or give rise to any pecuniary liability of the County or any municipality thereof or a charge against its general credit or taxing power;
- (d) The purposes to be accomplished by the Project, i.e., economic development, creation or retention of jobs, and addition to the tax base of the County, are proper governmental and public purposes;
- (e) The benefits of the Project to the public are greater than the costs to the public;
- (f) The Fee Agreement will require the Company to make fee-in-lieu of tax payments in accordance with the provisions of the Act;
- (g) The fee-in-lieu-of-tax payments referred to in item (f) above shall be calculated as specified in Section 5.01 of the Fee Agreement, and using the Infrastructure Credit terms of the Fee Agreement; and
- (h) The entire preamble of this Ordinance is hereby adopted as findings of fact, underpinning and supporting the approval of this Project by County Council.

Section 2. The form, terms, and provisions of the Fee Agreement (including, ‘without limitation, certain Infrastructure Credit terms) and the MCIP Agreement presented to this meeting and filed with the Clerk to the County Council be and they are hereby approved, and all of the terms, provisions, and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement and the MCIP Agreement were set out in this Ordinance in their entirety. The Chairman of County Council, the County Administrator, and the Clerk to the County Council be and they are

hereby authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement and the MCIP Agreement in the name and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company and the MCIP Agreement to be delivered to the Partner County. The Fee Agreement and the MCIP Agreement are to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the officials of the County executing the same upon the advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Fee Agreement and the MCIP Agreement now before this meeting.

Section 3. Pursuant to Section 12-44-55(B) of the FILOT Simplification Act, the County hereby agrees that no recapitulation information, as set forth in Section 12-44-55(A) of the FILOT Simplification Act is required to be provided by the Company in the Fee Agreement, or in any other documents or agreements in connection with the fee-in-lieu of tax arrangement between the Company and the County, so long as and to the extent that the Company complies with this Section 3. The Company shall file a copy of the South Carolina Department of Revenue form PT-443, and any subsequent amendments thereto, with the County after the execution of the Fee Agreement by the County and the Company and shall comply in all other respects with the requirements set forth in Section 12-44-90 of the FILOT Simplification Act and shall make all returns required by The Act and shall provide a copy of all such returns to the County Administrator within sixty (60) days of filing such action.

Section 4. The County and the Company believe that no Project sites are in a Park. To the extent necessary to ensure that all Project sites are, in fact, in a Park, the County agrees to use its best efforts, as necessary, to enter into or amend a Park Agreement with one or more other contiguous counties to create or expand a Park, pursuant to Section 13 of Article VIII of the South Carolina Constitution and Section 4-1-170 of the Code, to include the Project and the other property of the Company located at the Company's site(s) within the unincorporated portion of the County, and to use its best efforts to undertake and execute those procedures and documents necessary for the creation or expansion of such Park, and to keep the Project site(s) in such Park or any other Park of the County during the term of the incentives provided in the Inducement Agreement or subsequent ordinance(s) or agreement(s) that are contingent upon inclusion of the Project site(s) in a Park. Further, the County shall use its best efforts and endeavor to work with one or more contiguous counties (and, to the extent any future Project site(s) is located within the corporate limits of a municipality, will work with such municipality), again if necessary, to establish such Park in accordance with the terms of the Inducement Agreement, and, in any event, to keep the Project site(s) as part of such Park or any other Park of the County throughout the term of the incentives provided in the Inducement Agreement or subsequent ordinance(s) or agreement(s) that are contingent upon inclusion of the Project site(s) in a Park . To that end, the Joint County Industrial and Business Park Agreement (the "MCIP Agreement") attached hereto is hereby approved for use for such purposes. The Chairman of County Council, the County Administrator, and the Clerk to the Council are hereby authorized to execute and deliver the MCIP Agreement to a contiguous county for execution. The MCIP Agreement is to be in the form attached, or with such revisions as shall not be materially adverse to the County and as shall be approved by the County official executing the same, upon advice of counsel to the County, the execution of the MCIP Agreement to constitute conclusive evidence of the executing official's approval of the same.

Distribution of the fees in lieu of tax from the Project property in the Anderson County portion of the Park shall be distributed in accordance with one or more ordinances of Anderson County establishing such distribution schedule.

Section 5. The County hereby pre-approves and consents to a five (5) year extension of the Initial Investment Period for the Fee Agreement pursuant to Section 12-44-30(13) of the FILOT Simplification Act whereby the Company shall have an additional five (5) year period (added to the 5 year Initial Investment Period to meet the Minimum Investment Requirement and the Job Creation Requirement) to subject additional investments over and above the Minimum Investment Requirement to fee-in-lieu of *ad valorem* tax treatment, provided the Company invests at least the Minimum Investment Requirement, including in non-FILOT property, in the Project and meets the Job Creation Requirement on or before the end of the five (5) year Initial Investment Period.

Section 6. All fee-in lieu of *ad valorem* taxes pursuant to the Fee Agreement received by the County for MCIP premises located in the County attributable to MCIP property added on and after November 16, 2020 shall be distributed, net of the one percent (1%) payment to the partner county for the MCIP and the special source revenue credits provided by the County pursuant to Section 4-1-175 (“Net Park Fees”) as follows: First, 15% of Net Park Fees shall be deposited to Bond Fund created by Ordinance 2018-042 and used as required or permitted thereby, Second, 35% of Net Park Fees, and any surplus money under Ordinance 2018-042, shall be deposited to the Capital Renewal and Replacement Fund of the County, and Third, remaining Net Park Fees shall be disbursed to each of the taxing entities in the County which levy an old *ad valorem* property tax in any of the areas comprising the County’s portion of the MCIP in the same percentage as is equal to that taxing entity’s percentage of the millage rate (and proportion of operating and debt service millage) being levied in the current tax year for property tax purposes.

Section 7. The form, terms and provisions of the Inducement Agreement heretofore entered into by the County and the Company are hereby ratified and approved, and all of the terms, provisions, and conditions thereof are hereby incorporated by reference as if the Inducement Agreement were set out in this Ordinance in its entirety.

Section 8. (a) The Company shall and, in the Fee Agreement, agrees to indemnify and save the County as well as its governing body members, employees, officers and agents 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 and the Company further shall indemnify and save the County harmless against and from all claims from (i) any condition of the Project, (ii) any breach or default on the part of the Company in the performance of any of its obligations or terms in the Fee Agreement, or the Lease Agreement (if any) (iii) any act of the Company or any of its agents, contractors, servants, employees or licensees, (iv) any act of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, or (v) any environmental violation, condition or effect. The Company shall indemnify and save the County as well as its governing body members, employees, officers and agents 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, including, without limitation, ordinary and reasonable attorney’s fees, 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, whose approval of such counsel shall not unreasonably be withheld. All such indemnification and save harmless provisions shall be, and are, set forth in the Fee Agreement.

(b) Notwithstanding the fact that it is the intention of the parties that the County, its agents, officers, employees or governing body members, shall not incur pecuniary liability by reason of the terms of the Fee Agreement or terms, or the Lease Agreement (if any) or the undertakings required of the County hereunder by reason of the performance of any act requested of it by the Company, or by reason of the County's ownership of the Project, if so owned pursuant to a lease agreement, or the operation of the Project, 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, its agents, officers employees or governing body members should incur any such pecuniary liability, then in such event the Company shall indemnify 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, including, without limitation, ordinary and reasonable attorney's fees, and upon notice, the Company shall defend them in any such action or proceeding with legal counsel acceptable to the County, whose approval of such counsel shall not unreasonably be withheld.

(c) These indemnification covenants, at a minimum, shall be considered included in and incorporated by reference in subsequent documents after the closing which the County is requested to sign, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants, but may expand them or expound upon them, as may be shown in greater detail in such subsequent documents. In the event of any conflict or inconsistency, the indemnification and save harmless provisions of the Fee Agreement shall always govern. The indemnification and hold harmless provisions of this Section 8 shall not apply in the case of intentional misconduct or grossly negligent conduct by any indemnified person or entity, and such provisions shall be rendered cancelled and voided as to such person or entity in the event of such intentional misconduct or gross negligence being a proximate cause of the pecuniary liability in question.

Section 9. Whenever the County shall be required by any governmental or financial entity to file or produce any reports, notices, returns or other documents while the Fee Agreement is in effect, the Company or owner of the Project at the time shall promptly furnish to the County through the County Attorney the completed form of such required documents together with a certification by the Company or owner that such documents are accurate and not in violation of any provisions of law or of the other documents of this transaction, and that the documents meet the legal requirements of such filing or delivery. In the event of the failure or refusal of the Company or owner to comply with this provision, the Company or owner agrees to pay the statement for attorneys fees and administrative time presented by the County for producing and filing such documents, such statement to be paid within thirty (30) days after presentation by the County, and to promptly pay any fees, penalties, assessments or damages imposed upon the County by reason of its failure to duly file or produce such documents.

Section 10. Notwithstanding any other provisions, the County is executing the Fee Agreement and the MCIP Agreement as statutory accommodation to assist the Company in

achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes in reliance upon representations by the Company that the documents comply with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

Section 11. The Chairman of County Council, the County Administrator, and the Clerk to the County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary or proper to effect the execution and delivery of the Fee Agreement and the MCIP Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement, the Inducement Agreement, and the MCIP Agreement.

Section 12. The Chairman of County Council, the County Administrator, and the Clerk to the County Council, and any other proper officer of the County, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Ordinance.

Section 13. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision 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. Capitalized terms used herein shall have the meaning given in the Fee Agreement, if not provided herein.

Section 14. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict only, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

ANDERSON COUNTY, SOUTH
CAROLINA

Tommy Dunn, Chairman
Anderson County Council

ATTEST:

Rusty Burns, County Administrator
Anderson County, South Carolina

Seth A. Riddle, Clerk to Council
Anderson County, South Carolina

Approved as to form:

Leon C. Harmon, County Attorney
Anderson County, South Carolina

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

STATE OF SOUTH CAROLINA)	
)	AGREEMENT FOR DEVELOPMENT
COUNTY OF ANDERSON)	OF JOINT COUNTY INDUSTRIAL AND
)	BUSINESS PARK WITHIN ANDERSON
COUNTY OF GREENVILLE)	COUNTY, SOUTH CAROLINA
)	(PROJECT NEW)

THIS AGREEMENT for the development of a joint county industrial and business park to be located in Anderson County, is dated as of _____ 2021, and is made and entered into by and between the County of Anderson and the County of Greenville, both political subdivisions of the State of South Carolina.

RECITALS

WHEREAS, Anderson County, South Carolina ("Anderson County"), and Greenville County, South Carolina ("Greenville County") (collectively the "Counties"), have determined that, in order to promote economic development and thus provide additional employment opportunities within both of said counties, and to promote economic development in, and increase the tax base of Anderson County, there should be established in Anderson County, a Joint County Industrial and Business Park (the "Park") (PROJECT NEW), which Park shall be in addition to all previous Joint County Industrial and Business Parks previously established between the Counties; and

WHEREAS, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, during the term of this Agreement, but the owners or lessees of such property shall pay annual fees during that term in an amount equal to that amount of *ad valorem* taxes for which such owner or lessee would be liable except for such exemption; and

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Binding Agreement.** This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on the Counties, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(d), of the Constitution of South Carolina provides that counties may jointly develop an industrial and business park with other counties within the geographical boundaries of one or more of the member counties, and within a municipality, with the consent of such municipality, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a means by which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability for school districts. Section 4-1-170, Code of Laws of South Carolina, 1976, as amended ("Section 4-1-170"), satisfies the conditions imposed by Article VIII, Section 13(d), of the Constitution and provides the statutory vehicle whereby a joint county

industrial and business park may be created.

3. Location of the Park.

(A) The Park consists of property located in Anderson County, as is hereinafter more specifically described in Exhibit "A". It is specifically recognized that the Park may from time to time consist of non-contiguous properties. The boundaries of the Park may be enlarged from time to time to include additional parcels, and the boundaries of the Park may be diminished from time to time, all as authorized by ordinances of both of the Counties.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit "A" which shall contain a legal description of the boundaries of the Park, as enlarged or diminished, together with a copy of the ordinances of Anderson County Council and Greenville County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Anderson County Council and by Greenville County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the Anderson County Council. Notice of such public hearing shall be published in a newspaper of general circulation in Anderson County at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon the owner and, if applicable, the lessee of any real property which would be excluded from the Park by virtue of the diminution.

(D) Notwithstanding the foregoing, for a period of twenty (20) years commencing with the effective date of this Agreement, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner and the Counties and, if applicable, lessee of such parcel; and this sentence of this Agreement may not be modified or deleted herefrom for a period of twenty (20) years commencing with the effective date hereof, except as provided in Section 11 below.

4. **Fee in Lieu of Taxes.** Property located in the Park shall be exempt from *ad valorem* taxation, only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement an amount equivalent to the *ad valorem* property taxes or other in-lieu-of-payments that would have been due and payable but for the location of such property within the Park. Where, in this Agreement, reference is made to payment of *ad valorem* property taxes or other in-lieu-of-payments, such reference shall be construed, in accordance with this Paragraph 5, to mean the *ad valorem* property taxes or other in-lieu-of-payments that would otherwise have been due to be paid to Anderson County, after deduction of all applicable allowances, credits, deductions, and exemptions authorized or required by state law, subject to any contractual limitations that may be applicable with respect to a particular Property in the Park.

5. **Allocation of Park Expenses.** The Counties shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park in the following proportions:

A.	Greenville County	0%
B.	Anderson County	100%

Provided, however, in no event shall Greenville County be responsible for sharing (i) any portion of the costs incurred by Anderson County or the development expenses committed to by Anderson County either on behalf of any tenant of the Park or in conjunction with any State agency or political subdivision prior to the effective date of this Agreement, or (ii) such costs and expenses as are incurred or committed to by Anderson County after the effective date of this Agreement unless, prior to the incurrence or commitment of the costs and expenses referred to in this clause (ii), Anderson County shall have consulted with Greenville County as to the reasonableness of the same and received Greenville County's written concurrence of the reasonableness thereof. Owners of private property in the Park shall bear all expenses associated with development, operation, maintenance and promotion of their property.

6. Allocation of Park Revenues. The Counties shall receive an allocation of all revenue generated by the Park through payment of fees in lieu of ad valorem property taxes or from any other source in the following proportions:

A.	Greenville County	1%
B.	Anderson County	99%

With respect to properties located in the Anderson County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Anderson County. That portion of such fee allocated pursuant to the Park Agreement to Greenville County shall be thereafter paid by the Treasurer of Anderson County to the Treasurer of Greenville County in one payment by June 30 of the Anderson County fiscal year of receipt for distribution in accordance with this Park Agreement. The provisions of Section 12-2-90 of the Code of Laws of South Carolina 1976, as amended, or any successor statutes or provisions, apply to the collection and enforcement of the fee in lieu of ad valorem taxes. In the event that the payment made by any occupant of the Park is made under protest or is otherwise in dispute, Anderson County shall not be obligated to pay to Greenville County more than Anderson County's share of the undisputed portion thereof until thirty (30) days after the final resolution of such protest or dispute.

7. Revenue Allocation Within Each County. Revenues generated by the Park through the payment of fees in lieu of *ad valorem* property taxes shall be distributed to the Counties according to the proportions established by Paragraph 6. Such revenue shall be distributed within Anderson County, including payment of one percent (1%) of the revenues actually received to Greenville County, in accordance with an ordinance adopted or to be adopted by Anderson County, including, without limitation, by the Anderson County annual budget ordinance, which shall always make provision for distribution of at least some MCIP revenue to every taxing entity overlapping the MCIP site. Revenues received by Greenville County shall be distributed by Greenville County in accordance with an ordinance adopted by Greenville County. Zero percent (0%) of the Park revenues from payment of fees in lieu of *ad valorem* property taxes shall be paid to any taxing entity, other than as stated herein.

8. Fees in Lieu of Taxes Pursuant to Code of Laws of South Carolina. It is

hereby agreed that the entry by Anderson County or Greenville County into any one or more negotiated fee-in-lieu-of-tax agreements pursuant to Titles 4 or 12, South Carolina Code, 1976, as amended, or any successor or comparable statutes, with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of the two counties, respectively.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation of the Anderson County Participating Taxing Entities and the Greenville County Participating Taxing Entities and for the purpose of computing the index of taxpaying ability of the School District of each County pursuant to Section 59-20-20(3), Code of Laws of South Carolina, 1976, as amended, allocation of the assessed value of property within the Park to Anderson County and Greenville County shall be identical to the percentage established for the allocation of revenue to each of the counties pursuant to Paragraphs 6 and 7 respectively.

10. Jobs Tax Credit Valuation. For purposes of the jobs tax credit authorized by subsections of Section 12-6-3360 of the South Carolina Code, Anderson County is the county in which the permanent business enterprise is deemed to be located.

11. Non-qualifying Use. In the event that a tract or site of land located in the Park is purchased and developed by a business enterprise which does not qualify for Anderson County redevelopment incentives, or which locates employees within the Park and all of which employees, because of the nature of their employment, do not qualify for the corporate income tax credit provided in South Carolina Code of Laws, 1976, as amended, Section 12-6-3360 (the "Non-qualifying Site"), Anderson County may remove, by resolution, the Non-qualifying Site from the Park, but only if there are no infrastructure credits, bonds, or other financings or obligations which would be affected by such removal.

12. Records. The Counties, parties to this Agreement, covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the taxes so imposed, all as such records became available in the normal course of County procedures. It is further agreed that none of the parties shall request such records from any other party more frequently than once annually, absent compelling justification to the contrary.

13. Severability. In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

14. Termination. Notwithstanding any provision of this Agreement to the contrary, Anderson County and Greenville County agree that this Agreement shall terminate twenty (20) years from the effective date hereof, absent written agreement by both parties to extend this Agreement and the existence of the Park.

WITNESS our hands and seals this __ day of _____, 2021.

ANDERSON COUNTY, SOUTH CAROLINA

By: _____
Chairman, Anderson County Council

ATTEST:

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

WITNESS our hands and seals this __ day of _____, 2021.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Greenville County Administrator

ATTEST:

By: _____
Clerk to Council
Greenville County, South Carolina

EXHIBIT "A"

To the Agreement for Development of
Joint County Industrial and Business Park in Anderson County, South Carolina
Anderson County and Greenville County
Dated as of _____

Location of the Park (Anderson County)

FEE IN LIEU OF TAX AGREEMENT

between

ANDERSON COUNTY, SOUTH CAROLINA

and

PROJECT NEW

Dated as of _____, 2021

FEE IN LIEU OF TAX AGREEMENT

This FEE IN LIEU OF TAX AGREEMENT (this “Agreement”) is dated 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 New (the “Company”), a South Carolina company, along with one or more Sponsor Affiliates (together with the Company, collectively referred to herein as the “Company” or “Project New”).

WITNESSETH:

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 the Code of Laws of the State of South Carolina, 1976, as amended (the “Code”), including, without limitation, Titles 4 and 12, including, particularly, Chapter 44 of Title 12 of the Code (collectively, the “Act”), and the case law of the Courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to prospective developers as inducements for economic development within the County; to acquire, or cause to be acquired, properties (which such properties constitute “projects” as defined in the Act) and to enter into agreements with any business to construct, operate, maintain and improve such projects; to enter into or allow financing agreements with respect to such projects; and, to accept any grants for such projects through which powers the industrial and business development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, tourism or other public benefits not otherwise provided locally; and

WHEREAS, the County is authorized by Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Code (the “Joint-County Industrial and Business Park Act”), to enter into agreements with one or more contiguous counties for the creation and operation of one or more joint-county industrial and business parks; and

WHEREAS, the Company (previously identified as Project NEW (the “LLC”)), a South Carolina limited liability company, together with one or more Sponsor Affiliates (as defined in the Act)(the Company and Sponsor Affiliates, collectively referred to as “Project NEW” or the “Company” herein) is considering acquiring by construction or purchase certain land, buildings, furnishings, fixtures, machinery, apparatus, and equipment, for the development of a manufacturing facility in the County (the “Project”), which will result in the investment of an expected Two Million Nine Hundred Twenty Five Thousand (\$2,925,000) in new investment in the County, all of which would be subject to the fee-in-lieu-of-tax addressed by this Agreement, all within the meaning of the Act (the “Minimum Investment Requirement”), and the creation of an expected thirty two (32), but not fewer than twenty five (25) new, full-time jobs (the “Job Creation Requirement”), during the period beginning with the first day that real or personal property comprising the Project is purchased or acquired (expected to be in 2020 or 2021 (the Company’s tax year ends on 9/30)) and ending five

(5) years after the last day of the property tax year during which the Project is first placed in service (expected to be in 2021 or 2022) (the “Initial Investment Period”); and

WHEREAS, the County has determined that the Project would be aided by the availability of the assistance which the County might render through (1) the acquisition of the Project from the Company and the leasing of the Project to the Company pursuant to one or more lease agreements (each a “Lease Agreement”) or, alternatively, entering into a fee-in-lieu of tax agreement (“Fee Agreement”) with the Company with respect to the Project, under and pursuant to the Act (notwithstanding any other provision hereof, or of the Inducement Agreement authorized hereby, it is understood and agreed between the County and the Company that the possible use of a Lease Agreement to document and implement the new fee-in-lieu-of-tax arrangement for the Project, as described herein, refers to and would become applicable only in the event that a court of competent jurisdiction rules the provisions of Chapter 44 of Title 12 of the Code unconstitutional, invalid, or otherwise unenforceable); (2) the incentive of a negotiated fee-in-lieu of *ad valorem* taxes (a “FILOT”) as authorized by the Act; (3) the inclusion of the Project and the other real and personal property of the Company located at the Project site(s) in the County, in a joint-county industrial and business park which is either already in existence, or to be created by the County (the “Park” or the “Multi-County Industrial and Business Park” or “MCIP”); (4) the granting by the County to the Company of certain infrastructure credits, pursuant to Section 4-1-175 of the Code and other applicable provisions of the Act (the “Infrastructure Credits), to partially reimburse the Company for economic development infrastructure serving the County; and (5) the commitment by the County to certain other economic development incentives as an inducement to the Company to locate the Project in the County including, without limitation, the extension of the Initial Investment Period for an additional five (5) years (the “Extended Investment Period”) for investments in the Project if the Company has invested at least Two Million Nine Hundred Twenty Five Thousand Dollars (\$2,925,000) in the Project by the end of the Initial Investment Period; and, that the inducement will, to a great degree of certainty, result in the acquisition and construction of the Project in the County; and

WHEREAS, the County has given due consideration to the economic development impact of the Project, has found that the Project and the payments-in-lieu-of-taxes would be directly and substantially beneficial to the County, the taxing entities of the County, and the citizens and residents of the County, and that the Project would directly and indirectly benefit the general public welfare and serve a public purpose of the County by providing services, employment, recreation, promotion of tourism, or other public benefits not otherwise adequately provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality, or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development and welfare, creation of jobs, promotion of tourism, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the cost; and, has agreed to effect the issuance, execution and delivery of this Fee Agreement, with infrastructure credits, and an MCIP Agreement pursuant to an Ordinance of the County Council, and on the terms and conditions hereafter set forth; and

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Company to the County, the receipt and sufficiency of which are hereby acknowledged, 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 Title 12, Chapter 44 of the Code, as amended, and all future acts amendatory thereof. The Act is also known as the FILOT Simplification Act.

“Administration Expenses” shall mean the ordinary, reasonable, and necessary actual expenses including ordinary, actual, reasonable attorneys’ fees, incurred by the County with respect to the Project and this Agreement; provided, however, that no such expense shall be considered an Administration Expense unless the County furnishes to the Company a statement in writing indicating the reason such expense has been or will be incurred and either estimating the amount of such expense or stating the basis on which the expense has been or will be computed.

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

“Authorized Company Representative” shall mean any person or persons at the time designated to act on behalf of the Company by written certificate furnished to the County containing the specimen signature of each such person and signed on behalf of the Company by any person to whom the Company has delegated authority to administer this Agreement.

“Code” shall mean the Code of Laws of South Carolina, 1976, as amended through the date hereof unless the context clearly requires otherwise.

“Commencement Date” shall mean, in accordance with Section 12-44-30(2) of the Act, September 30, 2021 or September 30, 2022, the last day of the property tax year during which real or personal property comprising the Project is first placed in service, based upon and as proven by the Company’s tax returns to the South Carolina Department of Revenue.

“Company” shall mean Project New, a South Carolina company, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets permitted under Section 8.04 or Article IX hereof; or any assignee hereunder and any Sponsor Affiliate which is designated by the Company and approved by the County.

“Cost” shall mean the cost of acquiring by construction and purchase, the Project, including real and personal property and any infrastructure improvements, 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 contractors, builders, and materialmen in connection with the acquisition, construction, and installation of the Project; (b) the cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of construction of the Project which are not paid by the contractor or contractors or otherwise provided for; (c) 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 Project; (d) compensation of legal, accounting, financial, and printing expenses, fees, and all other expenses incurred in connection with the Project; (e) all other costs which the Company shall be required to pay under the terms of any contract or contracts for the acquisition, construction, and installation of the Project; and (f) any sums required to reimburse the Company for advances made for any of the above items, or for any other work done and costs incurred by the Company which are for the acquisition of land or property of a character subject to the allowance for depreciation provided for under Section 167 of the Internal Revenue Code of 1986, as amended, and included in the Project; provided, however, such term shall include expenditures by the Company with respect to the Project only to the extent made during the Investment Period.

“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.

“County Council” shall mean the governing body of the County and its successors.

“Department of Revenue” shall mean the South Carolina Department of Revenue and Taxation.

“Economic Development Property” shall mean each item of real and tangible personal property comprising a project within the meaning of Sections 12-44-30(6) or 12-44-40(C) of the Code.

“Equipment” shall mean all machinery, equipment, furnishings, and other personal property acquired by the Company and installed as part of the Project during the Investment Period in accordance with this Agreement.

“Event of Default” shall mean an Event of Default as defined in Section 11.01 hereof.

“Existing Property” shall mean property that does not qualify to become Economic Development Property pursuant to Section 12-44-110 of the Code.

“Extended Investment Period” shall mean the period beginning October 1, 2026 or 2027 and ending September 30, 2031 or 2032, dependent on the Commencement Date, as authorized by Section 12-44-30(13) of the Code.

“*FILOT*” shall mean the fee in lieu of taxes which the Company is obligated to pay to the County pursuant to Section 5.01 hereof.

“*FILOT Payments*” shall mean the payments to be made by the Company pursuant to Section 5.01 hereof.

“*FILOT Revenues*” shall mean the revenues received by the County from the Company’s payment of the FILOT.

“*FILOT Simplification Act*” shall mean Title 12, Chapter 44, of the Code, as amended through the date hereof.

“*Inducement Agreement*” shall mean that certain Inducement Agreement and Millage Rate Agreement by and between the County and the Company dated as of August 25, 2020.

“*Infrastructure Credit*” or “*Special Source Revenue Credit*” shall mean that certain credit, or credits, pursuant to Sections 4-1-175, 4-29-68, and 12-44-70 of the Code, against the Company’s FILOT liability, as set forth in the infrastructure financing terms of Section 5.02, hereof.

“*Initial Investment Period*” shall mean the period beginning with the first day that real or personal property comprising the Project is acquired for the Project (although not placed in service) (October 1, 2020 or 2021) and ending on September 30, 2026 or 2027, dependent on the Commencement Date, the date that is five years after the Commencement Date (the Company’s fiscal year ends on September 30).

“*Investment Period*” shall mean the combined Initial Investment Period and Extended Investment Period, beginning with the first day that real or personal property comprising the Project is acquired (although not placed in service) (October 1, 2020 or 2021, dependent on the Commencement Date) and ending September 30, 2031 or 2032.

“*Land*” shall mean the real estate upon which the Project is located, as described in EXHIBIT “A” attached hereto, as EXHIBIT “A” may be supplemented from time to time in accordance with the provisions hereof.

“*Negotiated FILOT Payment*” shall mean the FILOT due pursuant to Section 5.01(b)(ii) hereof with respect to that portion of the Project qualifying for the 6% assessment ratio and the millage rate described in subsection 5.01(c) of the Agreement.

“*Non-Economic Development Property*” shall mean that portion of the Project consisting of: (i) property as to which the Company incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) property not placed in service during the Investment Period; (iii) Existing Property; and (iv) any other property which fails or ceases to qualify for Negotiated FILOT Payments pursuant to the Act.

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

“Project” shall mean, in connection with the Company’s manufacture and production of products in the County and only to the extent such items are either placed in service during the Investment Period or qualify as Replacement Property: (i) the Land; (ii) all buildings, structures, fixtures, and appurtenances which now exist or which are now under construction or are to be constructed on the Land in whole or in part during the Investment Period, including any air conditioning and heating systems (which shall be deemed fixtures); and (iii) the Equipment.

“Released Property” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation, or eminent domain proceedings as described in Article VII hereof.

“Replaced Property” shall mean any Released Property for which the Company has substituted Replacement Property during the term hereof pursuant to Section 5.01(e) hereof.

“Replacement Property” shall mean any portion of the Project substituted for Released Property pursuant to Section 5.01(e) hereof.

“Sponsor” and “Sponsor Affiliate” shall have the meanings ascribed to each by the Act.

“State” shall mean the State of South Carolina.

“Streamlined FILOT Act” shall mean Title 4, Chapter 12, of the Code, as amended through the date hereof.

“Term” shall mean the term of this Agreement, as set forth in Section 10.01 hereof.

“Threshold Date” shall mean September 30, 2026 or September 30, 2027, dependent on the Commencement Date (the Company’s Fiscal Year ends on September 30).

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Code, as amended.

SECTION 1.02. References to Agreement The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole, unless the context clearly requires otherwise.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.01. Representations and Warranties by County. The County makes the following representations and warranties 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 of South Carolina 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.

(b) The County has determined that the Project will subserve the purposes of the Act, and has made all other findings of fact required by the Act in connection with the undertaking of the Project.

(c) By proper action by the County Council, the County has duly authorized the execution and delivery of this Agreement and any and all actions necessary and appropriate to consummate the transactions contemplated hereby.

(d) This Agreement has been duly executed and delivered on behalf of the County.

(e) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the County are pending or threatened against or affecting the County in any court or before any governmental authority which would materially adversely affect the validity or enforceability of this Agreement; provided, however, that no representation is made by or on behalf of the County as to the validity or enforceability of this Agreement.

(f) Notwithstanding any other provisions herein, the County is executing this Agreement as statutory accommodation to assist the Company in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction and it executes this Agreement in reliance upon representations by the Company that the documents comply with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina. No representation of the County is hereby made with regard to compliance by the Project or any Person with laws regulating (i) the construction or acquisition of the Project, (ii) environmental matters pertaining to the Project, (iii) the offer or sale of any securities, or (iv) the marketability of title to any property, including the Land.

SECTION 2.02. Representations and Warranties by 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 South Carolina company; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The Company intends to operate the Project primarily for the purposes of manufacturing, and for other lawful purposes.

(c) The agreements of the County with respect to the FILOT have been instrumental in inducing the Company to locate the Project within the County and the State.

(d) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Company are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(e) The Company expects to place in service the first phase of the Project during calendar year 2021, and to expend not less than Two Million Nine Hundred Twenty Five Thousand Dollars (\$2,925,000) of investment for Costs of the Project and to create about thirty two (32) or more (but not fewer than twenty five (25)) new, full-time jobs, all during the Initial Investment Period.

ARTICLE III

UNDERTAKINGS OF COUNTY

SECTION 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Company in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

SECTION 3.02. No Warranties by County. The Company acknowledges that it has examined the Land and so much of the other property constituting the Project as is in existence on the date of execution and delivery hereof, as well as title thereto, prior to the making of this Agreement, and knows the condition and state thereof as of the day of the execution hereof, and accepts the same in said condition and state; that no warranties or representations as to the condition or state thereof have been made by representatives of the County; and that the Company in entering into this Agreement is relying solely upon its own examination thereof and of any portion of the Project acquired subsequent to the date hereof. The County makes no warranty, either express or implied, as to title to any part of the Project or the design, capabilities, or condition of the Project or that it will be suitable for the Company's purposes or needs.

SECTION 3.03. Execution of Lease, if necessary. The parties acknowledge that the intent of this Agreement is to afford the Company the benefits of the Negotiated FILOT Payments in consideration of the Company's decision to locate the Project within the County and that this Agreement has been entered into in reliance upon the FILOT Simplification Act. Notwithstanding any other provision of this Agreement, in the event that a court of competent jurisdiction holds that the FILOT Simplification Act is unconstitutional, invalid or otherwise unenforceable or that this Agreement or agreements similar in nature to this Agreement are invalid or unenforceable in any material respect or should the parties determine that there is a reasonable doubt as to the validity or

enforceability of this Agreement in any material respect, then the County, in accordance with Section 12-44-160 of the Act, upon the conveyance of title to the Project to the County at the expense of the Company, and to the extent permitted by law, agrees to lease the Project to the Company pursuant to the Streamlined FILOT Act upon terms and conditions mutually agreeable to the County and the Company. The Company acknowledges that any such sale/leaseback arrangement may not preserve the benefits of the Streamlined FILOT Act with respect to any portion of the Project placed in service prior to the effective date of any such sale/leaseback arrangement with the County, to the extent that the effective date of such sale/leaseback arrangement is later than December 31 of the year in which such portion of the Project is placed in service. However, the County agrees that it will assist in efforts by the Company to have any such Economic Development Property included within the sale/leaseback arrangement under the Streamlined FILOT Act.

ARTICLE IV

INVESTMENT BY COMPANY IN PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

SECTION 4.01. Acquisition by Construction and Purchase of Project.

(a) The Company hereby agrees to expend upon the Cost of the Project not less than an expected Two Million Nine Hundred Twenty Five Thousand Dollars (\$2,925,000) or more investment in the County (including non-Economic Development Property), during the Initial Investment Period. The Company shall use its best efforts to cause such acquisition as promptly as is, in the Company's sole judgment, practicable.

(b) Pursuant to Section 12-44-30(13) of the Code, the County hereby approves, pre-approves, and grants to the Company an extension of five (5) years beyond the Threshold Date within which the Company may invest additional property in the County to complete the Project and have such additional property treated as Economic Development Property, if the Company invests the expected Two Million Nine Hundred Twenty Five Thousand Dollars (\$2,925,000) in the Project during the Initial Investment Period. Accordingly, the total Investment Period shall end on September 30, 2031 or 2032 (dependent on the Commencement Date). However, this subsection (b) shall not alter the requirement that the Company invest not less than the minimum investment, stated above, total, in the Project, including Non-Economic Development Property, prior to the Threshold Date.

(c) The Company shall retain title to the Project, throughout the Term of this Agreement, subject to the Company's rights hereunder to mortgage or encumber the Project as it deems suitable.

SECTION 4.02. Maintenance of Project. The Company at its own expense during the Term of this Agreement will keep and maintain the Project, or cause any other owner of the Project to keep and maintain its respective portion of the Project, in good operating condition. The Company will promptly make, or cause to be made, all repairs, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, that are necessary to keep the Project in good and lawful order and in good operating condition (wear and tear from reasonable use

excepted) whether or not such repairs are due to any laws, rules, regulations, or ordinances hereafter enacted which involve a change of policy on the part of the government body enacting the same.

SECTION 4.03. Modification of Project.

(a) As long as no event of default exists hereunder, 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, at its own expense, add to the Project all such real and personal property as the Company in its discretion deems useful or desirable.

(ii) In any instance where the Company in its discretion determines that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company may remove such items or portions from the Project and sell, trade in, exchange, or otherwise dispose of them (as a whole or in part) without the consent of the County. The Company may sell, lease, or otherwise dispose of any portion of the Land, in which event the Company shall deliver to the County, within 30 days thereafter, a new EXHIBIT "A" to this Agreement.

(b) No release of Project property effected under the provisions of Section 7.01 or 7.02 hereof or of this Section 4.03 shall entitle the Company to any abatement or diminution of the amounts payable by the Company hereunder except the FILOT payments as specified in Section 5.01(d) hereof.

SECTION 4.04. Records and Reports.

(a) The Company agrees to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project placed in service in each property tax year during the Investment Period, the amount of investment with respect thereto and its computations of all FILOT Payments made hereunder and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act, including without limitation the reports required by Section 12-44-90 of the Code (collectively, "Filings").

(b) Notwithstanding any other provision of this Section 4.04, the Company may designate with respect to any Filings delivered to the County segments thereof that the Company believes contain proprietary, confidential, or trade secret matters. To the extent permitted by law, the County shall conform, at the sole cost and expense of the Company, with all reasonable, written requests made by the Company with respect to maintaining the confidentiality of such designated segments.

ARTICLE V

PAYMENTS IN LIEU OF TAXES; FUNDING FOR INFRASTRUCTURE PROJECT

SECTION 5.01. Payments in Lieu of Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Company shall pay with respect to the Project annually a fee in lieu of taxes (a “FILOT”) in the amount calculated as set forth in paragraph (b) below, on or before January 15 of each year commencing on January 15, 2020, and at the places, in the manner, and subject to the penalty assessments prescribed by the County or the Department of Revenue for *ad valorem* taxes.

(b) The FILOT Payment due with respect to each property tax year shall equal the sum of (i) with respect to any portion of the Project consisting of undeveloped land or Non-Economic Development Property for which the Company is obligated, by law or agreement, to pay taxes, a payment equal to the taxes that would otherwise be due on such undeveloped land or Non-Economic Development Property were it subject to *ad valorem* taxes; (ii) with respect to those portions of the Project (other than undeveloped land and Non-Economic Development Property) placed in service during the Investment Period for each of the 30 consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) through (e) below (a “Negotiated FILOT”); and (iii) with respect to increments of the Project constituting Economic Development Property after such 30-year period, a payment equal to the *ad valorem* taxes that are due or would otherwise be due on such property were it subject to *ad valorem* taxes, as the case may be, with appropriate reductions with respect to the property described in clauses (i) and (ii) above, similar to the tax exemption, if any, which would be afforded to the Company if *ad valorem* taxes were paid, only to the extent permitted by the Act for Economic Development Property. For the purposes of clause (ii) above, there shall be excluded any Released Property and any other portion of the Project which ceases to qualify for a FILOT hereunder or under the Act.

(c) (i) The Negotiated FILOT Payment with respect to any property tax year shall be calculated in accordance with subparagraph (c)(ii) or (c)(iii) below.

(ii) The Negotiated FILOT Payments shall be calculated with respect to each property tax year based on (1) the fair market value of the improvements to real property and Equipment included within the Project theretofore placed in service (less, for Equipment, depreciation allowable for property tax purposes), (2) a fixed millage rate in effect for the Project site on June 30, 2019, which the parties hereto believe to be 326.3 mils, for all Project property, which millage rate shall remain fixed for the Term and (3) a fixed assessment ratio of 6%. The fair market value of the of the improvements to real property shall be determined by using the original income tax basis for State income tax purposes for any improvements without regard to depreciation and the fair market value of the Equipment shall be determined by using the 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. Such fair market value must be that determined by the Department of Revenue, in accordance with the Act. All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption

allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemption allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(iii) If legislation generally reducing the applicable minimum assessment ratio shall be enacted, the County shall, to the extent permitted by law, amend this Agreement to afford the Company the lowest assessment ratio permitted by law, if so approved by the County Council then in office. Moreover, if taxes on real and personal property shall be abolished in the County or in the State, the Company may terminate this Agreement immediately without further obligation other than those already accrued.

(d) The FILOT Payments are to be recalculated (i) to reduce such payments in the event the Company disposes of any part of the Project within the meaning of Section 12-44-50(B) of the Code, as provided in Section 4.03, by the amount thereof applicable to the Released Property; provided, however, that any disposal of Released Property need not result in a recalculation of the FILOT Payments unless the Company so elects; or (ii) to increase such payments in the event the Company adds property (other than Replacement Property) to the Project. To the extent that any Infrastructure Credit against FILOT Payments as provided under the Infrastructure Credits Section 5.02, below, is used as payment for personal property, including machinery and equipment, and the personal property is removed from the Project at any time during the life of the FILOT, the amount of the FILOT Payments due on the personal property for the year in which the personal property was removed from the Project also shall be due for the two years immediately following the removal.

(e) Upon the Company's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by the Company, such Replacement Property shall become subject to FILOT Payments to the extent permitted by, and in accordance with the Act.

(f) Should the Company not invest at least the minimum investment stated herein (Two Million Nine Hundred Twenty Five Thousand Dollars (\$2,925,000)) in the Project in the timeframe provided (during the Initial Investment Period) and maintain at least that amount of investment (without regard to depreciation) in the Project during the term of the Special Source Revenue Credits described in this paragraph and Section 5.02, hereof, the Company shall lose the benefit of some or all of the Special Source Infrastructure Credits (as defined in Section 5.02, hereof).

SECTION 5.02. Infrastructure Credits or Special Source Revenue Credits.

During the first ten (10) consecutive years that Payments In Lieu Of Taxes are made for the Project in accordance with Section 5.01, hereof, the Company shall also be entitled to claim Infrastructure Credits, or Special Source Revenue Credits ("SSRCs") of Forty Percent (40%) of the calculated Payment In Lieu of Taxes due for Project Property, each of the ten years. The Infrastructure Credit due to the Company shall be shown on the annual tax bill issued to the Company by the County for Project property. The Infrastructure Credit shown on the Project tax bill by the County shall never exceed the actual infrastructure expenditures by the Company, annually or cumulatively, as certified to the County by the Company, if and when so

requested by the County. Should the Company not achieve the investment or job creation requirements stated in Section 2.02(e) hereof by the end of the fifth (5th) year following the end of the first year in which Project Property is placed in service, the SSRCs described in this Section 5.02 will terminate. However, should the investment and jobs creation requirements of Section 2.02(e) subsequently be met by the Company by the end of the sixth (6th) year following the end of the first year in which Project Property is placed in service, the credits described herein will be reinstated for the duration of the credits – but no credit already lost/forfeited will be reimbursed. The Company's tax year ends on September 30. As provided in Section 4-29-68(A)(2)(ii) of the Code, to the extent any SSRC is used for reimbursement for economic development infrastructure that is personal property, and the personal property is removed from the Project at any time during the term of the SSRCs (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 shall be due for the two (2) years immediately following such removal.

ARTICLE VI

PAYMENT OF EXPENSES BY COMPANY

SECTION 6.01. Payment of Administration Expenses. The Company will pay to the County from time to time amounts equal to the Administration Expenses of the County promptly upon written request therefor, but in no event later than 45 days after receiving written notice from the County specifying the nature of such expenses and requesting payment of the same. Such expenses shall include, without limitation, the County's ordinary and reasonable actual fees for legal services related to the Project and the negotiation, authorization, and execution of the Fee Agreement, the Lease Agreement (if any), the Inducement Agreement, and any other legal agreements or political procedural documents that may be necessary in connection therewith, not to exceed Five Thousand Dollars (\$5,000).

SECTION 6.02. Defaulted Payments. In the event the Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid. If any such default relates to its obligations to make FILOT Payments or payments of Administration Expenses hereunder, the Company agrees to pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes or for non-payment of FILOT Payments.

ARTICLE VII

CASUALTY AND CONDEMNATION

SECTION 7.01. Damage and Destruction. If all or any part of the Project shall be lost, stolen, destroyed, or damaged, the Company in its discretion may repair or replace the same. If the Company shall determine to repair or replace the Project, the Company shall forthwith proceed with such rebuilding, repairing, or restoring and shall notify the County upon the completion thereof. The

County shall not have any responsibility to complete such rebuilding, repair or restoration thereof or pay any portion of the costs thereof including, without limitation, in the event any insurance proceeds are not sufficient to pay in full the costs of such rebuilding, repair or restoration, any costs in excess of the amount of said proceeds. The Company shall not by reason of any such damages or destruction or the payment of any excess costs be entitled to any reimbursement from the County or, except as set forth in Section 7.03 hereof, any abatement or diminution of the amounts payable hereunder.

SECTION 7.02. Condemnation. In the event that title to or the temporary use of the Project, or any part thereof, shall be taken in condemnation or by the exercise of the power of eminent domain, there shall be no abatement or reduction in the payments required by be made by the Company hereunder except as set forth in Section 7.03 hereof. The Company shall promptly notify the County, as to the nature and extent of such taking and, as soon as practicable thereafter, notify the County whether it has elected to restore the Project. If it shall be determined to restore the Project, the Company shall forthwith proceed with such restoration, and shall notify the County, upon the completion thereof.

SECTION 7.03. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, which damage, destruction, loss, theft and/or condemnation would substantially impair the operating ability of the Project or such portion thereof, the parties hereto agree that the FILOT Payments required pursuant to Section 5.01 hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes were payable with respect to the Project, subject, always, to the requirements of Section 5.01 hereof and the Act.

ARTICLE VIII

PARTICULAR COVENANTS AND AGREEMENTS

SECTION 8.01. Use of Project for Lawful Activities. The Company is hereby granted and shall have the right during the Term of this Agreement to occupy and use the Project for any lawful purpose authorized pursuant to the Act. Insofar as it is practicable under existing conditions from time to time during the Term of this Agreement, the Project shall be used primarily as a manufacturing facility.

SECTION 8.02. Right 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 and to have access to and examine and inspect all the Company's books and records pertaining to the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice, to examine the plans and specifications of the Company with respect to the Project. 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. In no way shall this requirement of confidentiality be deemed to apply to or restrict the rights of the United States

Government and the State of South Carolina or its political subdivisions in the exercise of their respective sovereign duties and powers.

SECTION 8.03. Limitation of Pecuniary Liability for County. Anything herein to the contrary notwithstanding: (a) the Project gives rise to no pecuniary liability of the County or charge against its general credit or taxing powers; and (b) the County may require as a condition to the participation by it with the Company in any contests or in obtaining any license or permits or other legal approvals a deposit by the Company of such amount as reasonably determined by the County to be appropriate to assure the reimbursement to the County of the costs incurred by it in such participation, with any amount of such deposit in excess of such costs to be returned to the Company; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance or any other remedy available at law or in equity.

SECTION 8.04. Maintenance of Existence. The Company covenants that any alteration of its separate existence, dissolution, consolidation, merger, transfer, or disposition of substantially all of its assets to any other entity shall be done in accordance and compliance with the Transfer Provisions. Subject to the Transfer Provisions, the Company may permit one or more other Persons to consolidate or merge into it without the consent of the County, provided no default shall have occurred and be continuing at the time of such proposed transaction or would result therefrom.

SECTION 8.05. Indemnification Covenants.

(a) Company shall and agrees to indemnify and save the County as well as the members of its governing body, its employees, officers and agents 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, and, Company further, shall indemnify and save the County harmless against and from all claims arising from (i) any condition of the Project, (ii) any breach or default on the part of Company in the performance of any of its obligations under this Agreement, (iii) any act of Company or any of its agents, contractors, servants, employees or licensees, related to the Project (iv) any act of any assignee, sublessee or subcompany of Company, or of any agents, contractors, servants, employees or licensees of any assignee, sublessee or subcompany of Company, related to the Project or (v) any environmental violation, condition, or effect, related to the Project. Company shall indemnify 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, including, without limitation, ordinary and reasonable, actual, attorney's fees, and upon notice from the County, Company shall defend it in any such action, prosecution or proceeding with counsel acceptable to the County, approval of whom shall not unreasonably be withheld by the County.

(b) Notwithstanding the fact that it is the intention of the parties that the County, its agents, officers, employees or governing body members, shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County thereunder, by reason of the performance of any act requested of it by the Company, or by reason of the County's ownership of the Project (if so owned), the operation of the Project 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, its agents, officers employees or governing body members should incur any such pecuniary liability, then in such event the Company shall indemnify 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, including, without limitation, ordinary and reasonable, actual, attorney's fees, and upon notice, the Company shall defend them in any such action or proceeding with counsel acceptable to the County, approval of whom shall not unreasonably be withheld by the County. These indemnification provisions of Section 8.05 shall not be available to or for agents, officers employees or governing body members of the County whose liability or exposure is caused by their own gross negligence or willful misconduct.

These indemnification covenants shall be considered included in and incorporated by reference in subsequent documents after the closing which the County is requested to sign, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

SECTION 8.06. INSURANCE COVENANTS. If the Company is required to utilize a Lease Agreement, as described herein, the Company will provide insurance coverage for the Project in the types and amounts acceptable to the County, whose approval thereof will not be unreasonably withheld. More specifically, the Company will, and to the extent there are any other owners of the Project, will cause such owners, to the extent of their respective portion of the Project, to: (i) keep the Project insured against loss or damage or perils generally insured against by industries or businesses similar to the Company, and will carry public liability insurance covering personal injury, death or property damage with respect to the Project; or (ii) self-insure with respect to such risks in the same manner as it does with respect to similar property owned by the Company; or (iii) maintain a combination of insurance coverage and self-insurance as to such risks.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

SECTION 9.01. Transfers of Interest in Agreement and Economic Development Property; Financing Arrangements. The Company and the County agree that any transfers of interest in this Agreement or Economic Development Property, and the entering into of any financing arrangement concerning any part of the Project shall be undertaken in compliance with the Transfer Provisions.

SECTION 9.02. Access. In lieu of and/or in addition to any subleasing by the Company pursuant to Section 9.01, the Company may, without any approval by the County, grant such rights of access to the Project and the buildings thereon as the Company may decide in its sole discretion.

SECTION 9.03. Relative Rights of County and Financing Entities as Secured Parties. The parties acknowledge that the County's right to receive FILOT Revenues hereunder shall have a first priority lien status pursuant to Section 12-44-90 of the Code, and Chapters 4 and 54 of Title 12

of the Code. The County consents and agrees that its rights under this Agreement, except for its rights to receive FILOT Revenues, Administration Expenses and Indemnification, pursuant to Section 8.05, shall be subordinate to the rights of the secured party or parties under any financing arrangements undertaken by the Company with respect to the Project pursuant to Section 9.01 hereof, such subordination to be effective without any additional consent or action on the part of the County; provided, however, that the County hereby agrees, at the sole cost and expense of the Company, to execute such agreements, documents, and instruments, in form and substance agreeable to the County and the Company, as may be reasonably required by such secured party or parties to effectuate or document such subordination. The County hereby authorizes the then current County Administrator to execute such agreements, documents, and instruments as necessary therefore, upon advice of legal counsel.

ARTICLE X

TERM; TERMINATION

SECTION 10.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executes this Agreement, and ending at midnight on the last day of the property tax year in which the last Negotiated FILOT Payment is due hereunder. The County's rights to receive defaulted FILOT payments, indemnification and payment of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

SECTION 10.02. Termination. The Company may terminate this Agreement at any time, in which event the Project shall be subject to *ad valorem* taxes from the date of termination.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

SECTION 11.01. Events of Default by Company. 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, Administration Expenses or indemnification required hereunder, which default shall not have been cured within 30 days following receipt of written notice thereof from the County; or

(b) if default shall be made by the Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraph (a), and such default shall continue for 90 days after the County shall have given the Company written notice of such default, the Company shall fail to use best, commercially reasonable efforts to cure the same.

SECTION 11.02. Remedies on Event of Default by Company. Upon the occurrence of any Event of Default and without limiting any other remedy or right which the County might have at law or in equity,, the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

(i) declare immediately due and payable all payments due hereunder including, without limitation, any such FILOT payments, payments of Administration Expenses or indemnification payments;

(ii) terminate this Agreement by delivery of written notice to the Company not less than 30 days prior to the termination date specified therein;

(iii) have access to and inspect, examine, and make copies of the books, records, and accounts of the Company pertaining to the construction, acquisition, or maintenance of the Project; or

(iv) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Company under this Agreement.

SECTION 11.03. Application of Moneys Upon Enforcement of Remedies. Any moneys received by the County upon enforcement of its rights hereunder shall be applied as follows: first, to the reasonable costs associated with such enforcement proceedings; second, to pay Administration Expenses; third, to pay any indemnification amounts owed to the County hereunder; fourth, to pay the FILOT; and fifth, to pay any other amount due to the County under this Agreement.

SECTION 11.04. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for *mandamus* or specific performance.

ARTICLE XII

MISCELLANEOUS

SECTION 12.01. 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 or the failure to 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 by 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 12.02. 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 as permitted hereunder.

SECTION 12.03. 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 first class mail, postage prepaid, or via facsimile transmission or reputable courier service, addressed as follows or to such other persons and places as may be designated in writing by such party.

- (a) As to County:
Anderson County, South Carolina
Attn: Rusty Burns, County Administrator
P. O. Box 8002
Anderson, South Carolina 29622-8002

with a copy to:

Anderson County Attorney
P. O. Box 8002
Anderson, South Carolina 29622-8002

- (b) As to Company:

Project New

SECTION 12.04. Applicable Law. This Agreement shall be governed by and construed in accordance with the law of the State of South Carolina.

SECTION 12.05. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other as to its subject matter, 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 12.06. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

SECTION 12.07. Headings and Table of Contents: References. The headings of the 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 subdivisions of this Agreement.

SECTION 12.08. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which taken together shall constitute but one and the same instrument. Facsimile signatures may be relied upon as if originals.

SECTION 12.09. Amendments. Subject to the limitations set forth in Section 12-44-40(J)(2) of the FILOT Simplification Act, this Agreement may be amended, or the rights and interests of the parties hereunder surrendered, only by a writing signed by both parties.

SECTION 12.10. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in writing signed by the waiving party.

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

(signatures on following pages)

ANDERSON COUNTY, SOUTH CAROLINA

By: _____
Tommy Dunn, Chairman of County Council
Anderson County, South Carolina

(SEAL)

ATTEST:

Seth A. Riddley, Assistant Clerk to County Council
Anderson County, South Carolina

Project New

BY: _____

NAME: _____

ITS: _____

EXHIBIT “A”

LAND DESCRIPTION

PROJECT NEW SITE

Ordinance #2021-039

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 +/- 11.23 acres from I-2 (Industrial District) to S-1 (Services District) on a parcel of land on Welpine Rd, in the Denver-Sandy Springs Precinct shown in Deed Book 14951 page 58. The parcel is further identified as TMS #93-00-04-004.

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 I-2 to S-1 for +/- 11.23 acres of TMS #93-00-04-004 described above; and,

Whereas, the Anderson County Planning Commission has held a duly advertised Public Hearing on June 8, 2021, during which it reviewed the proposed rezoning from I-2 to S-1 for +/- 11.23 acres of TMS #93-00-04-004 described above; and,

Whereas, the Anderson County Council has duly advertised and held a Public Hearing on July 20, 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 I-2 to S-1 +/- 11.23 acres of TMS #93-00-04-004 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 2021-039

Rusty Burns
Anderson County Administrator

Tommy Dunn, District #5, Chairman

Seth A. Riddley
Interim Clerk to Council

APPROVED AS TO FORM:

Anderson County Attorney

1st Reading: August 3, 2021
2nd Reading: August 17, 2021
3rd Reading: September 7, 2021
Public Hearing: August 17, 2021

Ordinance #2021-038

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 +/- 136.83 acres from R-20 (Single-Family Residential) to IZD (Innovative Zoning District) on three parcels of land in the Mt. Tabor Precinct shown in Deed Book 11262, 11262, and 12920 page 00024, 00024, and 00087 respectively; and including the Statement of Intent for "Cornerstone" dated April 30, 2021. The parcels are further identified as TMS #043-00-01-006, 043-00-01-020 and 043-00-11-021.

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 IZD for +/- 136.83 acres of TMS #043-00-01-006, 043-00-01-020 and 043-00-11-021 described above; and,

Whereas, the Anderson County Planning Commission has held a duly advertised Public Hearing on June 8, 2021, during which it reviewed the proposed rezoning from R-20 to IZD +/- 136.83 acres of TMS #043-00-01-006, 043-00-01-020 and 043-00-11-021 including the Statement of Intent dated April 30, 2021; and,

Whereas, the Anderson County Council has duly advertised and held a Public Hearing on July 20, 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 IZD +/- 136.83 acres of TMS #043-00-01-006, 043-00-01-020 and 043-00-11-021 described above, including the Statement of Intent dated April 30, 2021.
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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Rusty Burns
Anderson County Administrator

Tommy Dunn, District #5, Chairman

Seth A. Riddley
Interim Clerk to Council

APPROVED AS TO FORM:

Anderson County Attorney

1st Reading: August 3, 2021
2nd Reading: August 17, 2021
3rd Reading: September 7, 2021
Public Hearing: August 17, 2021

Ordinance #2021-037

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 +/- 2.193 acres from C-1N (Neighborhood Commercial) to R-20 (Single-Family Residential) on a parcel of land, identified as Tract 1-B Bowen Rd in the Hopewell Precinct shown in Deed Book S2763 page 00006. The parcel is further identified as part of TMS #145-07-01-010.

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 C-1N to R-20 for +/- 2.193 acres of TMS #145-07-01-010 described above; and,

Whereas, the Anderson County Planning Commission has held a duly advertised Public Hearing on June 8, 2021, during which it reviewed the proposed rezoning from to C-1N to R-20 +/- 2.193 acres of TMS #145-07-01-010 described above; and,

Whereas, the Anderson County Council has duly advertised and held a Public Hearing on July 20, 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 C-1N to R-20 +/- 2.193 acres of TMS #145-07-01-010 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 2021-037

Rusty Burns
Anderson County Administrator

Tommy Dunn, District #5, Chairman

Seth A. Riddley
Interim Clerk to Council

APPROVED AS TO FORM:

Anderson County Attorney

1st Reading: August 3, 2021
2nd Reading: August 17, 2021
3rd Reading: September 7, 2021
Public Hearing: August 17, 2021



MEMORANDUM

ANDERSON COUNTY DEVELOPMENT STANDARDS

DATE: July 28, 2021

TO: Janie Turmon
Assistant Clerk to Council

FROM: Tim Cartee
Land Use Administrator

CC: Holt Hopkins, Alesia Hunter

SUBJECT: Farms at Spearman Subdivision AKA Sam Cox Farms

We recommend acceptance of Farms at Spearman. Please place on the next County Council Agenda for consideration of acceptance for the following roads into the County Maintenance System.

This will add 3,732 feet of paved roads to the county maintenance system.

Developer: JC Cox
Location: Spearman Road
County Council District: 4
Roads: Jacob Lee Drive, Elise Court, McKenna Drive

Please feel free to contact me at (260-4719) if you need more information.

Tommy Dunn
Chairman, District 5

John B. Wright
Council District 1

Ray Graham
Council District 3

Cindy Wilson
Council District 7

ANDERSON COUNTY
SOUTH CAROLINA

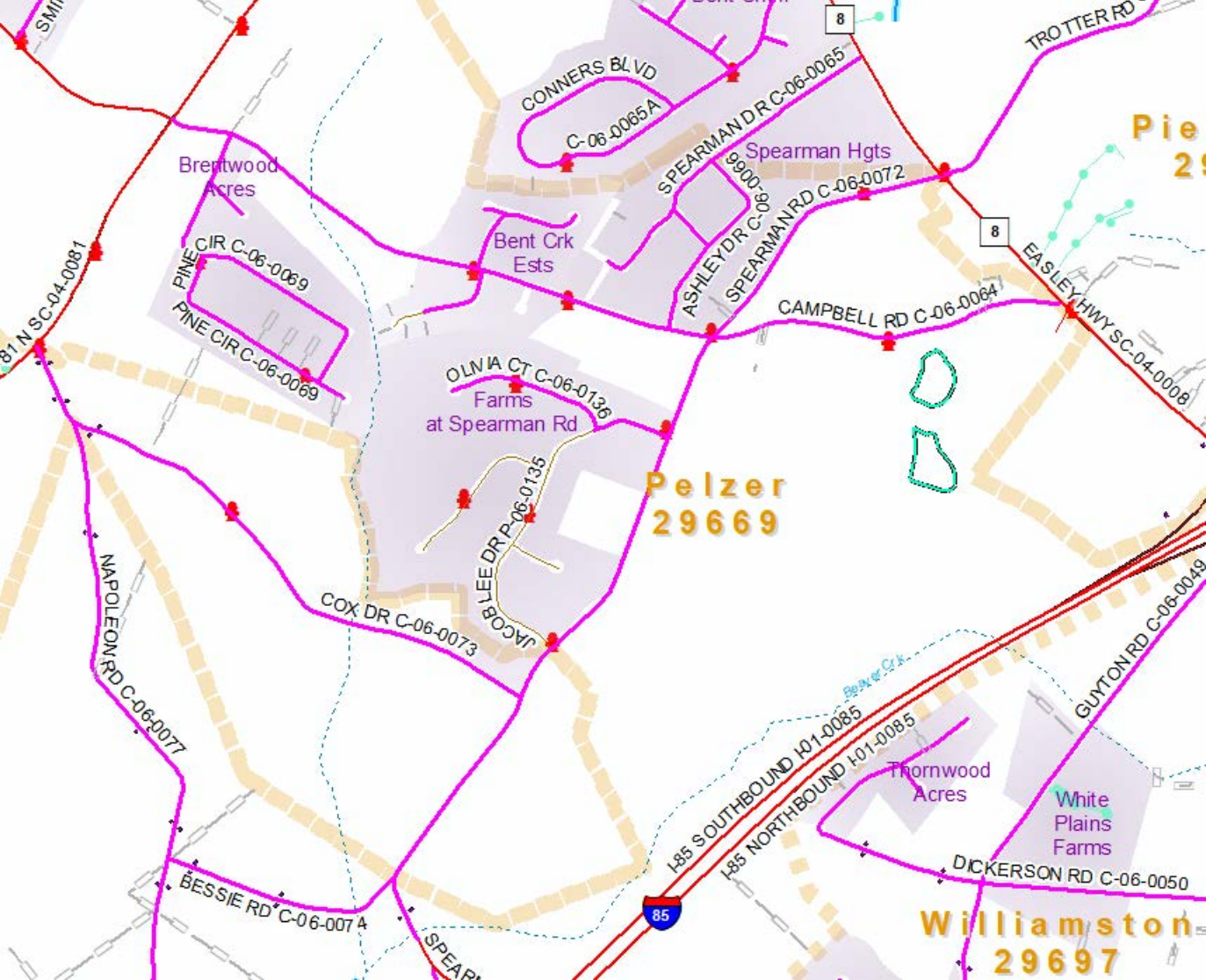
Brett Sanders
V. Chairman, District 4

Glenn Davis
Council District 2

Jimmy Davis
Council District 6

Lacey Croegaert
Clerk to Council

Rusty Burns | County Administrator
rburns@andersoncountysc.org



**RECREATION FUND APPROPRIATIONS
APPLICATION FORM**

**WHAT DISTRICT(S) ARE YOU REQUESTING FUNDING FROM:
DISTRICT: _____**

Mail/Email/Fax to:
Anderson County Council Clerk
P. O. Box 8002
Anderson, SC 29622
lacroegaert@andersoncountysc.org
Fax: 864-260-4356

1. Name of entity requesting recreation fund appropriation:

The Lot Project

2. Amount of request (If requesting funds from more than one district, annotate amount from each district): \$1500 for venue sponsorship

3. The purpose for which the funds are being requested:

The LOT Project is seeking sponsors for their upcoming
Charity Cornhole Tournament

4. Is the entity a non-profit corporation in good standing with the South Carolina Secretary of State? If so, please attach evidence of that good standing. Yes. Please see attached.

5. Contact Person: Sherri L. Anderson
Mailing Address: P.O. Box 4181, Anderson, SC, 29622
Phone Number: (423) 833-2005
Email: Sherri.Anderson@thelotproject.com

6. Statement as to whether the entity will be providing matching funds:

Matching funds and other contributions will be used for
this fund raising event.

I certify that the forgoing is true and accurate to the best of my knowledge and that I am authorized to make this application on behalf of the above named entity.

 Sherri L. Anderson 7/21/21
Signature Print Name Date



State of South Carolina
Office of the Secretary of State
The Honorable Mark Hammond

Jun 22, 2021

The LOT Project, Inc
Mr. David Moore
302 W MARKET ST
ANDERSON, SC 29624-1437

RE: Registration Confirmation

Charity Public ID: P18422

Dear Mr. David Moore :

This letter confirms that the Secretary of State's Office has received and accepted your Registration, therefore, your charitable organization is in compliance with the registration requirement of the "South Carolina Solicitation of Charitable Funds Act." The registration of your charitable organization will expire on May 15, 2022.

If any of the information on your Registration form changes throughout the course of the year, please contact our office to make updates. It is important that this information remain updated so that our office can keep you informed of any changes that may affect your charitable organization.

If you have not yet filed your annual financial report or an extension for the annual financial report, the annual financial report is still due 4 ½ months after the close of your fiscal year.

- Annual financial reports must either be submitted on the Internal Revenue Service Form 990 or 990-EZ or the Secretary of State's Annual Financial Report Form.
- If you wish to extend the filing of that form with us, please submit a written request by email or fax to our office using the contact information below. Failure to submit the annual financial report may result in an administrative fine of up to \$2,000.00.

If you have any questions or concerns, please visit our website at www.sos.sc.gov or contact our office using the contact information below.

Sincerely,

Kimberly S. Wickersham
Director, Division of Public Charities

RECREATION FUND APPROPRIATIONS
APPLICATION FORM

WHAT DISTRICT(S) ARE YOU REQUESTING FUNDING FROM:

DISTRICT: 3

Mail/Email/Fax to:
Anderson County Council Clerk
P. O. Box 8002
Anderson, SC 29622
kapoulin@andersoncountysc.org
Fax: 864-260-4356

1. Name of entity requesting recreation fund appropriation:

Iva Rec Assoc

2. Amount of request (If requesting funds from more than one district, annotate amount from each district):

500.00

3. The purpose for which the funds are being requested: Starr Iva 12u Allstars
travel to Louisiana and play in World Series

4. Is the entity a non-profit corporation in good standing with the South Carolina Secretary of State? If so, please attach evidence of that good standing. yes

5. Contact Person: NAKIA DAVIS

Mailing Address: Po Box 747 Iva SC 29655

Phone Number: 864-934-0396

6. Statement as to whether the entity will be providing matching funds: yes

I certify that the forgoing is true and accurate to the best of my knowledge and that I am authorized to make this application on behalf of the above named entity.



Signature

C. NAKIA DAVIS

Print Name

7/19/21

Date



ANDERSON COUNTY SHERIFF'S OFFICE

June 2021

Uniform Patrol	
Average Daily Calls for Service	341
Total Calls for Services	10,216
Total Number of Incident Reports	1439
Total Number of Arrests	307
Total Number of "Domestic" Incidents	83
Total Number of "Unlawful Conduct Towards a Child" Reports	3

Detention Center	
Average Daily Population	320
Average Daily Population Capacity Percentage	128.0%
Total Number of Meals Served	31,882
Litter Crew: Total Miles Cleaned/Cleared	30
Litter Crew: Total Number of Trash Bags Processed	1,707
Litter Crew: Total Number of Tires Removed	104

Communications Center	
Average Daily Calls for Service	1,064
Total Calls for Assistance	31,921

Records	
Total DSS Histories & Reports	397
Total Non Ferrous Metal Permits	164
Total Number of Tickets	106
Total Number of Case Jackets to Court	127

Courthouse	
Number of People Screened	No Data
Courthouse, Annex, Summary Crt & Library	No Data
Number of Juveniles Transported	No Data
Number of Walk-Up Bench Warrants	No Data
Number of Family Court Cases	No Data
Number of Inmates Through Courthouse	No Data
Number of Bank Transports Conducted	No Data
Number of Preliminary Hearings	No Data
Number of Keep Checks on County Parks	No Data
Number of Civil Papers Served	No Data

Complied from manually entered data
Some data is not accurate due to the transfer to Central Square
Courthouse data not available due to Officer being on leave

Animal Control	
Average Daily Calls for Service	20
Total Calls for Service	551
Total Number of Animals Collected/Transported	156
Total Number of State Tickets/Arrest Warrants	1
Total Number of County Ordinance Tickets/Warnings Issued	9/113
Traffic Stops/Reports Written	8/15
Large Animal Calls	21

Forensics	
Total Individual Analysis Completed	7,422
Total Number of Evidence Pieces Collected	886
Total Number of Evidence Pieces Processed	653
Total Number of CSI Calls	195
Total Number of Photos Taken	5,145
Total Number of Finger Prints Collected	288

Civil Process & Warrants	
Total Number of Civil Papers Received	1,196
Total Number of Civil Papers Completed	969
Total Number of Evictions Completed	34
Hours Spent on Evictions	26 hrs.
Total Number of Pick Up Orders	4
Hours Spent on Pick Up Orders	8 hrs.
Total Warrants Received	300
Total Warrants Served/Cleared	200
Total Judgments Received	17
Total Judgments Satisfied	0
Total Judgments Nulla Bona	7

Detention - New Hires

N/A