

# **RICHLAND COUNTY**

## **REGULAR SESSION**

### **AGENDA**

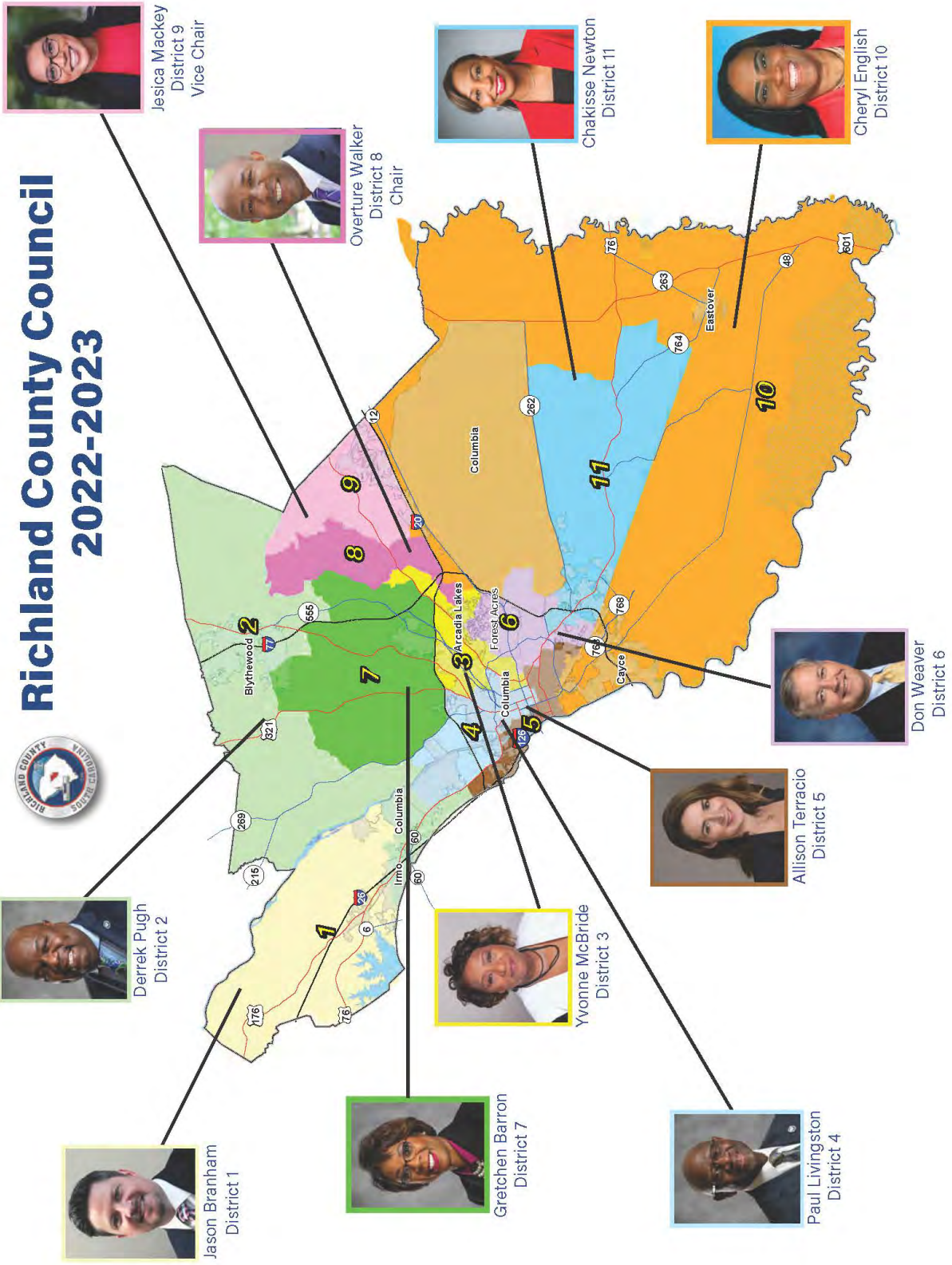


**TUESDAY MARCH 21, 2023**

**6:00 PM**

**COUNCIL CHAMBERS**

# Richland County Council 2022-2023





**Richland County  
Regular Session**

**AGENDA**

March 21, 2023 06:00 PM  
Council Chambers  
2020 Hampton Street, Columbia, SC 29204

1. **CALL TO ORDER**

The Honorable Overture Walker,  
Chair Richland County Council

  - a. ROLL CALL
2. **INVOCATION**

The Honorable Jesica Mackey
3. **PLEDGE OF ALLEGIANCE**

The Honorable Jesica Mackey
4. **PRESENTATION OF PROCLAMATION**

The Honorable Derrek Pugh

  - a. A Proclamation recognizing the life of local activist  
Kevin Alexander Gray  
The Honorable Paul Livingston  
The Honorable Yvonne McBride  
The Honorable Derrek Pugh  
The Honorable Allison Terracio  
The Honorable Gretchen Barron  
The Honorable Overture Walker  
The Honorable Jesica Mackey  
The Honorable Cheryl English  
The Honorable Chakisse Newton
  - b. A Proclamation recognizing the retirement of Brenda J.  
Dail  
The Honorable Yvonne McBride
  - c. A Proclamation recognizing March as Bleeding Disorder  
Awareness Month  
The Honorable Jesica Mackey  
The Honorable Yvonne McBride  
The Honorable Cheryl English
5. **PRESENTATION**
  - a. Conservation Commission - FY23-24 Annual Plan
6. **APPROVAL OF MINUTES**

The Honorable Overture Walker

  - a. Regular Session: March 7, 2023 [PAGES 10-16]
7. **ADOPTION OF AGENDA**

The Honorable Overture Walker

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

Patrick Wright,  
County Attorney

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

- a. Allen University Property Request – 1741 Cushman Drive, Columbia, SC 29203
- b. Project Charlie Echo

**9. CITIZEN'S INPUT**

The Honorable Overture Walker

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

**10. CITIZEN'S INPUT**

The Honorable Overture Walker

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time.)

**11. REPORT OF THE COUNTY ADMINISTRATOR**

Leonardo Brown,  
County Administrator

- a. Updates for Consideration:
  - 1. Allen University Property Request - 1741 Cushman Drive, Columbia, SC 29203 (executive session)
  - 2. Land Development Code (attachment 1) [PAGES 18-29]
- b. Administrator's Nomination:
  - 1. Community Development Division - HOME ARP - Allocation Plan Approval (Attachment 2) [PAGES 30-72]

**12. REPORT OF THE CLERK OF COUNCIL**

Anette Kirylo,  
Clerk of Council

**13. REPORT OF THE CHAIR**

The Honorable Overture Walker

**14. OPEN / CLOSE PUBLIC HEARINGS**

- a. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Scout Motors, Inc., a company previously identified as Project

Connect, to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; authorizing the execution and delivery of a project development agreement or memorandum of understanding by Richland County, South Carolina; and other related matters

- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and CIBRA Solutions, LLC, a company previously identified as Project Viper, to provide for payment of a fee-in-lieu of taxes; and other related matters
- c. Authorizing the transfer of certain property owned by Richland County and located in the Pineview Industrial Park; and other matters related hereto

**15. APPROVAL OF CONSENT ITEMS**

The Honorable Overture Walker

- a. Case #22-038MA  
Drew Huddleston  
RU to GC (2.72 Acres)  
W/S Hard Scrabble Road  
TMS# R20300-04-17 [THIRD READING]  
**[PAGES 73-74]**
- b. Case # 22-039MA  
Richland County  
M-1 to HI (574.57 Acres)  
Bluff Road and Longwood Road  
TMS# R18900-02-22, R16100-02-03, R16200-03-02,  
R16100-02-22, R18900-01-01, and R16100-02-07  
[THIRD READING] **[PAGES 75-76]**

**16. THIRD READING ITEMS**

The Honorable Overture Walker

- a. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Scout Motors, Inc., a company previously identified as Project Connect, to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; authorizing the execution and delivery of a project development agreement or memorandum of understanding by Richland County, South Carolina; and other related matters **[PAGES 77-126]**
- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Cibra Solutions, LLC, a company previously identified as

Project Viper, to provide for payment of a fee-in-lieu of taxes; and other related matters [PAGES 127-159]

- c. Authorizing the transfer of certain property owned by Richland County and located in the Pineview Industrial Park; and other matters related hereto [PAGES 160-185]

**17. SECOND READING ITEMS**

The Honorable Overture Walker

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to a company known to the county as Project Wichita; and other related matters [PAGES 186-209]
- b. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to a company currently identified as Project Siquino; and other related matters [PAGES 210-233]
- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Charlie Echo to provide for payment of a fee-in-lieu of taxes; authorizing certain special source credits; and other related matters [PAGES 234-267]

**18. REPORT OF ECONOMIC DEVELOPMENT COMMITTEE**

The Honorable Paul Livingston

- a. Committing to negotiate a fee-in-lieu of ad valorem taxes agreement between Richland County and Scout Motors, Inc., a company previously identified as Project Connect; identifying the project; and other matters related thereto [PAGES 268-269]
- b. Authorizing the transfer of certain real property owned by Richland County and located in the Northpoint Industrial Park to Project Osmium; and other matters related thereto [FIRST READING] [PAGES 270-273]

**19. REPORT OF RULES & APPOINTMENTS COMMITTEE**

The Honorable Gretchen Barron

- a. NOTIFICATION OF APPOINTMENTS

1. Airport Commission - One (1) Vacancy (Applicant must reside in the Rosewood, Shandon, or Hollywood-Rose Wales Garden neighborhoods) **[PAGE 274]**
  - a. Brian Gwin
  - b. Frank Caggiano
  - c. Heather Heckman
  
2. Community Relations Council - Three (3) Vacancies **[PAGE 275]**
  - a. Porscha Gatewood
  - b. Sheila Harris
  - c. Shandelle Simmons
  - d. Shayne Kinloch
  - e. Kizzie Smalls
  - f. Karen Phillips
  
3. Employee Grievance - Two (2) Vacancies (Must be a Richland County Government employee) **[PAGE 276]**
  - a. Christa Sheehan
  
4. Planning Commission - One (1) Vacancy **[PAGE 277]**
  - a. William "Bill" Malinowski
  - b. Bryan Grady
  
5. Riverbanks Park Commission - One (1) Vacancy **[PAGE 278]**
  - a. Robert Davidson

**b. NOTIFICATION OF VACANCIES [PAGES 279-280]**

1. Accommodations Tax Committee - Six (6) Vacancies (ONE applicant must have a background in the lodging industry, THREE applicants must have a background in the hospitality industry, ONE applicant must have a cultural background and ONE applicant will fill an At-Large seat)
  
2. Board of Zoning Appeals - Four (4) Vacancies
  
3. Building Codes Board of Appeals - Nine (9) Vacancies (ONE applicant must be from the architecture industry, ONE applicant must be from the gas industry, ONE must be from the building industry, ONE applicant must be from the contracting industry, ONE applicant must be from the plumbing industry, ONE applicant must be from the electrical industry, ONE applicant must be from the engineering industry and TWO applicants must be from the fire industry, as alternates)
  
4. Business Service Center Appeals Board - Three (3) Vacancies (ONE applicant must be from the business industry and TWO applicants must be CPAs)

- 5. Community Relations Council - One (1) Vacancy
- 6. Employee Grievance Committee - One (1) Vacancy (Must be a Richland County Government Employee)
- 7. Hospitality Tax Committee - Three (3) Vacancies (TWO applicants must be from the restaurant industry)
- 8. Midlands Workforce Development Board - Four (4) Vacancies (Applicants must be from the Private Sector)
- 9. Transportation Penny Advisory Committee (TPAC) - Four (4) Vacancies

**20. OTHER ITEMS**

The Honorable Overture Walker

**a. FY23 - District 7 Hospitality Tax Allocations [PAGES 281-282]**

- 1. American Heart Association - \$7,500
- 2. Talented Tenth SC - \$5,000

**b. FY23 - District 8 Hospitality Tax Allocations [PAGES 283-284]**

- 1. Columbia Music Festival Association - \$5,000

**21. EXECUTIVE SESSION**

Patrick Wright,  
County Attorney

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

**22. MOTION PERIOD**

**23. ADJOURNMENT**

The Honorable Overture Walker





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



Richland County Council  
REGULAR SESSION  
**MINUTES**

March 7, 2023 – 6:00 PM  
Council Chambers

2020 Hampton Street, Columbia, SC 29204

COUNCIL MEMBERS PRESENT: Overture Walker, Chair; Jesica Mackey, Vice-Chair; Derrek Pugh, Jason Branham, Yvonne McBride, Paul Livingston, Allison Terracio, Don Weaver, Gretchen Barron, Cheryl English, and Chakisse Newton

OTHERS PRESENT: Michelle Onley, Kyle Holsclaw, Judy Carter, Michael Byrd, Angela Weathersby, Dale Welch, Aric Jensen, Patrick Wright, Leonardo Brown, Anette Kirylo, Sandra Haynes, Tamar Black, Susan O’Cain, Jeff Ruble, Ashiya Myers, Abhijit Deshpande, Crayman Harvey, Stacey Hamm, Chelsea Bennett, Casey White, Jennifer Wladischkin, Sarah Harris, Lauren Holm, John Thompson, Trina Walker, Kim Stroman, Hayden Davis, Chris Eversmann, Angela Lewis, Dante Roberts, Geo Price, David Adams, Jeanette McBride, and Lori Thomas.

1. **CALL TO ORDER** – Chairman Overture Walker called the meeting to order at approximately 6:00 PM.  
Mr. Walker acknowledged the Secretary of Commerce, Harry Lightsey, was in the audience.
2. **INVOCATION** – Ms. Mackey recognized women elected officials serving in Richland County and acknowledged fellow Councilwomen McBride, Terracio, Barron, English, and Newton; she also acknowledged former Councilwomen Candi Waites and Bernice Scott in honor of Women’s History Month.  
Ms. McBride recognized the Clerk of Court, Ms. Jeanette McBride, the first African-American Clerk of Court, was in the audience.  
The Honorable Cheryl English led the Invocation.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Jesica Mackey.  
Mr. Walker acknowledged Chief Magistrate Sandra Sutton was in the audience.
4. **PRESENTATION OF PROCLAMATIONS**
  - a. **A Proclamation Recognizing James Dale Truitt’s Retirement [McBRIDE]** – Ms. Tamar Black, Assistant to the Clerk of Council, read the proclamation into the record.
  - b. **A Proclamation recognizing Foodshare South Carolina and declaring March as National Nutrition Month [McBRIDE, LIVINGSTON, BRANHAM, NEWTON, and ENGLISH]** – Ms. Chelsea Bennett, Public Information/Communication Deputy Director, read the proclamation into the record.
5. **PRESENTATION OF RESOLUTION**
  - a. **A Resolution Recognizing T. Dwight Hanna’s Retirement** – Mr. Pugh moved to approve a resolution recognizing Mr. T. Dwight Hanna’s retirement, seconded by Ms. Mackey.  
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton  
The vote in favor was unanimous.  
Ms. Mackey presented a resolution to Mr. T. Dwight Hanna, Human Resources Director, recognizing his retirement from Richland County after 25 years.  
**POINT OF PERSONAL PRIVILEGE** – Ms. English stated the t-shirt she was wearing was in honor of the University of South Carolina’s Center for Development Resources annual expo.

6. **APPROVAL OF MINUTES**

- a. Special Called Meeting: February 14, 2023 – Ms. Barron brought to the Clerk of Council staff’s attention that some of the details of Council’s discussion(s) were left out of the minutes. She noted she would follow up with the Clerk’s Office regarding the items she referenced.

Ms. Newton moved to approve the minutes as distributed, seconded by Ms. Barron.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

- b. Zoning Public Hearing: February 28, 2023 – Ms. Barron moved to approve the minutes as distributed, seconded by Ms. McBride.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

7. **ADOPTION OF AGENDA** – Mr. Patrick Wright, County Attorney, requested to add “Project Connect” under the Report of the Attorney for Executive Session.

Mr. Livingston moved to adopt the agenda as amended, seconded by Ms. English.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

8. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION (Pursuant to SC Code 30-4-70)** – Mr. Wright stated the following item is eligible to receive legal advice and be discussed in Executive Session:

- a. Project Connect

Ms. Barron moved to go into Executive Session, seconded by Mr. Pugh.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

*Council went into Executive Session at approximately 6:27 PM  
and came out at approximately 7:12 PM*

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

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

9. **CITIZENS’ INPUT**

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

10. **CITIZENS’ INPUT**

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time.) – No one signed up to speak.

11. **REPORT OF THE COUNTY ADMINISTRATOR**

- a. Updates for Consideration:

1. 1741 Cushman – The County Administrator, Leonardo Brown, stated he sent a counteroffer to Allen University. He has not received an additional offer from them.
2. Gregg Street Property – Mr. Brown stated he had received a tentative request related to the property on Gregg Street where the Probation, Pardon, and Parole were housed. He is anticipating receipt of an offer.
3. Hospitality Tax and Accommodations Tax Process – Mr. Brown noted he had received emails regarding the hospitality and accommodations tax process. Some applicants missed the application deadline. He spoke with the County Attorney, and our process depends on the applicants meeting the deadline(s). Council members can address organizations outside of the committee process during the budget process.

4. ClearGov – The Budget Director, Abhijit Deshpande, gave a brief overview of the ClearGov software.

Ms. McBride inquired about the communication timeline for budget submission.

Mr. Deshpande responded the initial communication was sent in December 2022 via email and announced on the Executive Team call.

Ms. McBride inquired if there would be communications going out to outside agencies. She noted there had been confusion previously regarding communications.

Mr. Deshpande replied the first announcement about the hospitality and accommodations tax grant process was in November 2022.

#### **AUDIO PROBLEMS**

Ms. English inquired if this would be a one-time expenditure or an ongoing request for Voter Registration.

Mr. Brown responded Voter Registration input information into the system, and then we would talk about it at the budget meeting. This particular request is related to the increased funding for salaries. The licensing and upkeep of the machines will be a recurring cost. He noted some of these costs would be reimbursed because of how this office operates. He stated there is a way to determine whether a request is a one-time or recurring request. Then we discuss whether the costs can be addressed with the current budget or if it would require new dollars coming in.

Ms. Mackey inquired is an internal program or whether Councilmembers will be expected to utilize it.

Mr. Deshpande responded only internal staff would be utilizing the program.

#### **12. REPORT OF THE CLERK OF COUNCIL**

- a. Capital Planning and Coronavirus Ad Hoc Committee Work Sessions – The Clerk of Council, Anette Kirylo, reminded Council, and the public, the Capital Planning Work Session is scheduled for March 8<sup>th</sup> at 3:30 in Council Chambers. In addition, the Coronavirus Ad Hoc Committee Work Session will be held on March 21<sup>st</sup> at 2:00 PM. The agendas for these meetings were provided to Councilmembers at tonight’s meeting.
- b. Richland International Gala – Ms. Kirylo stated Councilmembers should have received an invitation to the Richland International Gala. The gala will be held on March 23<sup>rd</sup>, and the International Festival will occur on April 1<sup>st</sup> and 2<sup>nd</sup>.

#### **13. REPORT OF THE CHAIR** – No report was given.

#### **14. OPEN/CLOSE PUBLIC HEARINGS**

- a. An Ordinance establishing the offense of using, discharging, shooting, or igniting fireworks or similar explosives within unincorporated Richland County between certain hours, to provide exceptions, and to provide a penalty for each violation – No one signed up to speak.

#### **15. APPROVAL OF CONSENT ITEMS**

- a. Case # 22-038MA, Drew Huddleston, RU to GC (2.72 Acres), W/S Hard Scrabble Road, TMS # R20300-04-17 [SECOND READING] – Mr. Livingston moved to approve this item, seconded by Ms. Barron.  
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton  
The vote in favor was unanimous.
- b. Case # 22-039MA, Richland County, M-1 to HI (574.57 Acres), Bluff Road and Longwood Road, TMS # R18900-02-22, R16100-02-03, R16200-03-02, R16100-02-22, R18900-01-01, and R16100-02-07 [SECOND READING]
- c. Court Administration – Intergovernmental Agreement – Town of Arcadia Lakes – Municipal Judge
- d. Treasurer’s Office – Disbursement of Forestry Funds
- e. Department of Public Works – Jim Hamilton-LB Owens Airport – Use of Landside Airport Property
- f. Operational Services – Hampton Street – Elevator Modernization
- g. Operational Services – Selective Demolition of Dillard’s

Ms. Newton moved to approve Items 15(b)–15(g), seconded by Ms. Barron.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

Mr. Pugh moved to reconsider Items 15(c)-15(g), seconded by Ms. Newton.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The motion for reconsideration failed.

16. **THIRD READING ITEM**

- a. An Ordinance establishing the offense of using, discharging, shooting, or igniting fireworks or similar explosives within unincorporated Richland County between certain hours, to provide exceptions, and to provide a penalty for each violation – Ms. Newton moved to amend the language of Sec. 18-7(c)(5), as follows: “To ignite or detonate fireworks within six hundred (600) feet of a church, hospital, public school, *other than a lawful property owner or resident that occupies property within the six hundred (600) feet*, unless authorized by the proper officials or managers of the property, during times allowable under section (b);”. Mr. Pugh seconded the motion.

Ms. Terracio inquired if the ordinance addresses the prohibition of discharging fireworks during school or church hours.

Mr. Wright replied that the ordinance prohibits fireworks shooting between 10:00 PM-7:00 AM. The ordinance does not prohibit them from shooting fireworks during daylight hours.

Ms. Newton stated citizens are allowed to do so now, and it is not a rampant problem. She noted she intended to allow residents to enjoy their homes on holidays.

Ms. McBride inquired about the penalty for the first offense.

Mr. Wright replied it is up to \$500. The 2<sup>nd</sup> offense is up to \$750, and the 3<sup>rd</sup> offense is up to \$1,000.

Ms. McBride requested a public information campaign be put in place to educate the citizens.

Mr. Brown stated he believes that would be appropriate.

Mr. Wright noted the recommended effective date is July 1, 2023.

Ms. Newton indicated she is in favor of regulating fireworks during these hours. The fireworks affect her family and pets. She is troubled by the \$500 fine, so she will vote against this item.

Ms. McBride stated for clarification that the magistrate determines the amount of the fine.

Mr. Wright responded in the affirmative.

Ms. McBride inquired if legally the amount of the fine could be negotiated.

Mr. Wright replied the amount of the fine is up to Council.

Ms. McBride inquired if Ms. Newton had a recommendation for the fine amount.

Ms. Newton responded this has been deliberated and discussed so many times by this body; therefore, she does not know what a “good” amount is.

Mr. Walker noted that the effective date for the ordinance is July 1, 2023.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Barron, Walker, Mackey, and English

Opposed: Weaver and Newton

The vote was in favor.

**POINT OF PERSONAL PRIVILEGE** – Mr. Pugh thanked his colleagues for the discussion and deliberations on this ordinance. He noted he received phone calls regarding this matter when he took office. He assured the citizens this was not a ploy to take away fireworks but to give veterans and pet owners a better quality of life.

Mr. Walker thanked Mr. Pugh and the Development and Services Committee for their hard work on this issue.

- b. Authorizing the purchase of an existing mitigation bank to secure mitigation credits to support economic development projects; and other matters related thereto – Mr. Livingston moved to approve this item, seconded by Ms. Mackey.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton  
The vote in favor was unanimous.

Mr. Livingston moved to reconsider this item, seconded by Ms. Newton.

Ms. Barron made a substitute motion to reconsider Items 16(a) and (b), seconded by Mr. Livingston.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The motion for reconsideration failed.

17. **SECOND READING ITEM**

- a. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to a company identified for the time being as Project Subtext; and other related matters – Mr. Livingston moved to approve this item, seconded by Ms. Barron.

In Favor: Branham, Pugh, McBride, Livingston, Weaver, Barron, Walker, English, and Newton

Opposed: Terracio

Recuse: Mackey (due to her parent company representing the company)

The vote was in favor.

18. **REPORT OF ECONOMIC DEVELOPMENT COMMITTEE**

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

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

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

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Recuse: Mackey (due to her parent company representing the company)

The vote in favor was unanimous.

- c. Committing to negotiate a fee-in-lieu of ad valorem taxes and incentive agreement between Richland County and Project Charlie Echo; identifying the project; and other matters related thereto

- d. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Charlie Echo to provide for payment of a fee-in-lieu of taxes; authorizing certain special source credits; and other related matters [FIRST READING] – Mr. Livingston stated the committee did not have a recommendation. However, he would like to move to approve Items 18(c) and (d), seconded by Mr. Pugh.

**AUDIO PROBLEMS**

Mr. Wright responded, at this point, it is a part of the committee's report. He stated a Councilmember could make a motion for Council to take it up. The item does not have to go back to the committee since no action was taken in the committee.

For clarification, Ms. McBride stated that the first vote would be to have Council take up the item. If Council approves moving forward with the item, there will be a second vote for approval.

Mr. Branham inquired if the vote would be a majority vote.

Mr. Wright responded in the affirmative.

Ms. Barron inquired, if the vote is in favor of moving forward, will Council take up the item at tonight's meeting?

Mr. Wright responded Council could take up the item at tonight's meeting. The first vote would be to decide if Council wants to take up the item for discussion, and the second would be to give the item First Reading.

Ms. Barron stated she wants to take up the item. However, she could not attend the Economic Development Committee meeting, so she is at a disadvantage because she does not have all the information. She would like Council to consider this item at a later date, so we can be brought up to date on what we are voting on.

Mr. Livingston stated all three members of the Economic Development Committee were present at the meeting when this item was taken up. He reminded everyone this would be the First Reading of this item.

Ms. McBride inquired if Council could receive more information.

Mr. Wright replied Council could go into Executive Session, defer the item to receive additional information, or move forward.

Ms. Barron inquired if this was a time-sensitive item.

#### **AUDIO PROBLEMS**

Ms. Barron noted she is fine with voting on this by title only, but that differs from what we are doing.

Mr. Livingston replied that he had no issue approving the item by title only.

Mr. Walker stated the motion on the floor was to take the item up. If the vote is in the affirmative, the next step will be to approve First Reading of the item or defer it.

Mr. Livingston inquired if the motion to take up the item fails; where does that put the item?

Mr. Walker responded the item would die.

Mr. Livingston inquired if the item would go back to the committee.

Mr. Walker replied the item would die, but the committee could subsequently take it up later.

Mr. Livingston stated if this is the case, we need to call a Special Called meeting for tomorrow and change Council Rules. This means that no matter how important an Economic Development item is, one Councilmember can decide that item does not come before Council.

Ms. McBride stated three (3) committee members were at the meeting, and two (2) did not vote to move it forward.

Mr. Livingston stated one committee member voted not to move it forward.

Ms. McBride responded no one voted. The motion died for lack of a second.

Mr. Branham inquired if the County Attorney, or outside counsel, would be prepared to advise Council on this matter in Executive Session.

Mr. Wright replied he did not have all the information with him. The committee members or the Economic Director, Jeff Ruble, could provide additional information.

In Favor: Branham, Pugh, Livingston, Weaver, Walker, and Newton

Opposed: McBride, Terracio, Barron, and English

Recuse: Mackey (due to her parent company representing the company)

The vote was in favor of taking up the item.

Mr. Livingston moved to approve this item for first reading, seconded by Mr. Weaver.

Ms. Barron stated she was not trying to hold anything up. She was merely trying to get more information to support the committee fully. She believes it is only fair if she is being asked to support something, where the committee did not have a recommendation, that she has the information. She wants economic development to take place in Richland County.

Ms. McBride indicated she would vote against this item. She must look out for the young people whom automatic weapons have killed. In addition, she is compelled to look out for the community. She has no problem supporting a manufacturer who manufactures things the military and law enforcement utilize. If certain things get into the hands of people who are irresponsible and could result in havoc and death. In good conscience, she cannot approve using public funds to incentivize this type of manufacturer.

Ms. Terracio noted that she wants the public to be informed about what is happening. Additionally, this week we celebrated a manufacturer that will bring positivity to the County. She stated that this other industry has a lot of money, and they do not need the County's extra dollars.

Mr. Weaver indicated this is a long-time manufacturer in Northeast Columbia who has done much for the US military. We need to approve this out of respect for those who have or are serving.

Ms. Barron made a substitute motion to go into Executive Session, seconded by Mr. Branham.

In Favor: Branham, Pugh, McBride, Livingston, Barron, Walker, English, and Newton

Opposed: Terracio and Weaver

Recuse: Mackey (due to her parent company representing the company)

The vote was in favor.

***Council went into Executive Session at approximately 8:11 PM  
and came out at approximately 8:24 PM***

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

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, English, and Newton

Recuse: Mackey (due to her parent company representing the company)

The vote in favor was unanimous.

Mr. Walker inquired if Mr. Livingston needed to make the motion again for First Reading approval.

Mr. Wright responded there was no need to remake the original motion.

In Favor: Branham, Pugh, Livingston, Weaver, Barron, Walker, and English

Opposed: McBride, Terracio, and Newton

Recuse: Mackey (due to her parent company representing the company)

The vote was in favor of First Reading approval.

19. **OTHER ITEMS**

- a. A Resolution to appoint and commission Rayvoughn Demaris Ray as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County
- b. FY23 – District 5 Hospitality Tax Allocations: Trustus Theatre - \$10,000
- c. FY23 – District 7 Hospitality Tax Allocations: Homeless No More - \$1,000

Ms. Newton moved to approve Items 19(a)-19(c), seconded by Ms. Barron.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

Ms. Newton moved to reconsider Items 19(a)-19(c), seconded by Ms. Terracio.

Opposed: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The motion for reconsideration failed.

20. **EXECUTIVE SESSION** – There were no additional Executive Session items.

21. **MOTION PERIOD** – There were no motions submitted.

22. **ADJOURNMENT** – Ms. Newton moved to adjourn the meeting, seconded by Mr. Pugh.

In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton

The vote in favor was unanimous.

The meeting adjourned at approximately 8:28 PM.



**RICHLAND COUNTY  
ADMINISTRATION**

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



Report of the County Administrator

Regular Session - March 21, 2023

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**UPDATES FOR CONSIDERATION:**

1. **Allen University Property Request - 1741 Cushman Drive, Columbia, SC 29203 (executive session)**
2. **Land Development Code (attachment 1)**

**ADMINISTRATOR'S NOMINATION:**

1. **Community Development Division - HOME ARP - Allocation Plan Approval:** The Office of Community Development seeks approval for the HOME-ARP Allocation Plan to be submitted to HUD by March 31, 2023 to secure the \$2,696,855 in funds allocated to Richland County.

**ATTACHMENTS:**

1. Land Development Code Informational Briefing
2. Agenda Briefing - Community Development Division - HOME ARP - Allocation Plan Approval



Informational Agenda Briefing

<b>Prepared by:</b>	Aric Jensen	<b>Title:</b>	Assistant County Administrator
<b>Department:</b>	Administration	<b>Division:</b>	
<b>Date Prepared:</b>	February 28, 2023	<b>Meeting Date:</b>	March 21, 2023
<b>Approved for consideration:</b>	County Administrator	Leonardo Brown, MBA, CPM	
<b>Meeting/Committee</b>	Regular Session		
<b>Subject:</b>	Proposed 2021 LDC Development Code Zoning Map and Text Amendments Update		

At its November 16, 2021 Regular Session meeting, County Council adopted a comprehensive update of the 2005 Land Development Code (LDC); however, the Council effectively deferred approval of a revised Zoning Map. As such, the adopted 2021 LDC is not yet in effect.

In April 2022, the County Council directed the Planning Commission to prepare a revised Zoning Map consistent with the 2021 LDC and to recommend related text amendments.

In November 2022, the County Planning Commission completed its assignment and requested that its recommendations be shared with the public before being presented to the Council for consideration. This request included a focused outreach effort in the Lower Richland area which occurred from December 2022 - January 2023.

In February 2023, the County Administrator and his staff initiated a general public information campaign consisting of media releases, an informational video, community open houses, and electronic media.

On March 21, 2023, the Council will receive an update from the County Administrator and staff which includes a proposed process/schedule for considering the Planning Commission's recommendations. Staff requests that the Council direct the Administrator to proceed with the recommended schedule, or, alternatively, propose a different schedule. The recommended schedule encompasses two components: the Zoning Map and LDC text amendments.

The County Attorney has determined that the Zoning Map must be approved first to "cure" or complete the existing, open ordinance adopted by the Council in November 2021. Once completed, the Council may approve the Planning Commission's recommended text amendments and any other text amendments the Council deems appropriate.

Following a presentation of the Planning Commission's actions and recommendations, staff will recommend the approval of the proposed schedule to consider its recommendations.

*Proposed Zoning Map and LDC Text Amendment Schedule*

21 Mar 2023	Presentation on Planning Commission's recommendations
22 Mar 2023 – 26 Jun 2023	Community meetings in at least each Council District
27 Jun 2023	Zoning Public Hearing for Zoning Map
18 Jul 2023	First Reading Zoning Map
29 Aug 2023	Second Reading Zoning Map
12 Sep 2023	Third Reading Zoning Map; 6 Month Moratorium on new development applications; First Reading LDC Text Amendment
03 Oct 2023	Second Reading LDC Text; LDC Text Public Hearing
07 Nov 2023	Third Reading LDC Text
12 Mar 2024	Expiration of Moratorium

**ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INITIATIVE:**

Goal 4: Plan for growth through inclusive and equitable infrastructure

Objective 4.1: Establish plans and success metrics that allow for smart growth

**ATTACHMENTS:**

1. PowerPoint Presentation

# 2021 LAND DEVELOPMENT CODE ZONE MAP PROCESS RESTART

Status Update 21 March 2023

Prepared by Aric A Jensen, AICP, Assistant County Administrator



# STATUTORY OBLIGATIONS AND REQUIREMENTS

South Carolina has a planning and zoning enabling act codified in Title 6, Chapter 29, SC Code of Laws which authorizes cities and counties to create zoning ordinances and zoning maps. The County is subject to the Planning Act in the performance of its duties.



# ADOPTING A LAND DEVELOPMENT CODE

- Prior to adopting a land development code and zoning map, a city or county must adopt a comprehensive land use plan.
- All zoning ordinances and amendments must conform to the comprehensive plan.
- The Planning Commission must make a recommendation to County Council before it adopts a land use code or zoning map.
- The County Council must hold a public hearing and then adopt the land development code and zoning map by ordinance.



# OVERALL PROCESS AND CURRENT PLACE

March 2015	Council adopts Comprehensive Land Use Plan update
November 2021	Council adopts 2021 Land Development Code text
April 2022	Council directs the Planning Commission to prepare a Zoning Map consistent with the adopted 2021 LDC text and to recommend any related text amendments
November 2022	Planning Commission recommends a zoning map and text amendments to Council
December 2022 thru January 2023	County staff conducts Lower Richland focus group
February 2023	County begins media campaign notifying public the Planning Commission has made a recommendation
March 2023	Council receives first report following the Planning Commission process



# COMMUNITY MEETING DATES (SCHEDULED)

February 08	<del>Ballentine Library</del>	District <del>1</del>
March 22	Garners Ferry Adult Activity Center, 8620 Garners Ferry Road, Hopkins	District 10 & 11
March 29	Gillian Park, 1424 Marthan Road, Blythewood	District 2 & 7
April 03	Richland Library Eastover, 608 Main St., Eastover	District 10 & 11
April 10	New Castle-Trenholm Acres Community Center, 5819 Shakespeare Road, Columbia	District 3, 8 & 6
April 12	Council Chambers, Richland County Administration Building, 2020 Hampton St., Columbia	District 4, 5 & 10





# COMMUNITY MEETING DATES (TBD)

- District 2 & 4      Broad River Rd Area
- District 2 & 7      Fairfield/Winnsboro Rd Area
- District 3 & 4      Columbia College/North Main Area
- District 3, 7 & 8      Spring Valley Area
- District 6 & 11      Forest Acres Area
- District 8 & 9      Clemson Rd/Two Notch Area

*Others as necessary*



# ZONING MAP RECOMMENDATIONS

- Is a translation of zones from the 2005 LDC to their equivalent in the 2021 LDC based on the “translation table” in the adopted 2021 LDC, with two exceptions:
  - **Exception #1** - The Commission recommended that the Council add the M-1 Zone back into the 2021 LDC text.
  - **Exception #2** - The translation table had more than one possible translation for rural zones, so the Commission created a metric for determining whether a property should be classified as AG, HM, or RT. The rule was applied to Rural and Rural Residential zones and is based on size/acreage: 35 acres or larger = AG; 3 - 35 acres = HM; 0 - 3 acres = RT.

TABLE 26-1.9(e): Zoning District Equivalencies

Former Zoning District	New Zoning District
PR: Parks & Recreation	OS: Open Space
TROS: Traditional Recreation Open Space	OS: Open Space
RU: Rural	AG: Agricultural
	HM: Homestead
RR: Rural Residential	HM: Homestead
	RT: Residential Transition
RS-E: Residential Single-family Estate	R1: Residential 1
RS-LD: Residential Single-family Low-Density	R2: Residential 2
RS-MD: Residential Single-family Medium-Density	R3: Residential 3
RS-HD: Residential Single-family High-Density	R4: Residential 4
MH: Manufactured Home	N/A
RM-MD: Residential Multi-family Medium-Density	R5: Residential 5
RM-HD: Residential Multi-family High-Density	R6: Residential 6
OI: Office & Institutional	EMP: Employment
	INS: Institutional
NC: Neighborhood Commercial	MU1: Neighborhood Mixed-Use
RC: Rural Commercial	RC: Rural Crossroads
GC: General Commercial	GC: General Commercial
M-1: Light Industrial	EMP: Employment
LI: Light Industrial	LI: Light Industrial
HI: Heavy Industrial	HI: Heavy Industrial
CC: Crane Creek	CC: Crane Creek
PDD: Planned Development	PD: Planned Development
TC: Town & Country	N/A
AP: Airport Height Restrictive Overlay	AHR-O: Airport Height Restrictive Overlay
C: Conservation	WR-O: Water Resources Overlay
EP: Environmental Protection Overlay	WR-O: Water Resources Overlay
FP: Floodplain Overlay	FP-O: Floodplain Overlay
RD: Redevelopment Overlay	N/A



# PLANNING COMMISSION RECOMMENDATION: ZONING MAP

TABLE 26-1.9(e): Zoning District Equivalencies	
Former Zoning District	New Zoning District
PR: Parks & Recreation	OS: Open Space
TROS: Traditional Recreation Open Space	OS: Open Space
RU: Rural	AG: Agricultural
	HM: Homestead
RR: Rural Residential	HM: Homestead
	RT: Residential Transition
RS-E: Residential Single-family Estate	R1: Residential 1
RS-LD: Residential Single-family Low-Density	R2: Residential 2
RS-MD: Residential Single-family Medium-Density	R3: Residential 3
RS-HD: Residential Single-family High-Density	R4: Residential 4
MH: Manufactured Home	N/A
RM-MD: Residential Multi-family Medium-Density	R5: Residential 5
RM-HD: Residential Multi-family High-Density	R6: Residential 6
OI: Office & Institutional	EMP: Employment
	INS: Institutional
NC: Neighborhood Commercial	MU1: Neighborhood Mixed-Use
RC: Rural Commercial	RC: Rural Crossroads
GC: General Commercial	GC: General Commercial
M-1: Light Industrial	EMP: Employment
LI: Light Industrial	LI: Light Industrial
HI: Heavy Industrial	HI: Heavy Industrial



# TEXT AMENDMENT RECOMMENDATIONS

- The Planning Commission approved 30 motions related to text amendments:
  - 6 motions related to minimum densities and minimum lot sizes in the AG, HM, and RT rural zones;
  - 1 motion to remove multiple-dwelling uses in the R2, R3, and R4 zones;
  - 1 motion to remove the manufactured-home use from the R2 zone;
  - 5 motions to add or delete uses from rural zoning designations;
  - 16 motions to amend how subdivisions are designed, including density bonus calculations, lot size ranges, and energy efficiency standards;
  - 1 motion to add the M-1 zone designation back into the Land Development Code.



# NEXT STEPS

★ **February thru June 2023**

**Community meetings**

June 27, 2023

Zoning public hearing

July 18, 2023

First reading Zoning Map

August 29, 2023

Second reading Zoning Map

September 12, 2023

Third reading Zoning Map; Moratorium on new development applications (6 months); First reading LDC text amendment

October 03, 2023

Second reading LDC text; LDC text public hearing

November 07, 2023

Third reading LDC text

March 12, 2023

Expiration of moratorium



**RICHLAND COUNTY  
ADMINISTRATION**

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

Attachment 2



Agenda Briefing

<b>Prepared by:</b>	Callison Richardson	<b>Title:</b>	Division Manager
<b>Department:</b>	Community Planning & Development	<b>Division:</b>	Community Development
<b>Date Prepared:</b>	February 16, 2023	<b>Meeting Date:</b>	March 21, 2023
<b>Legal Review</b>	Patrick Wright via email	<b>Date:</b>	March 7, 2023
<b>Budget Review</b>	Abhijit Deshpande via email	<b>Date:</b>	March 7, 2023
<b>Finance Review</b>	Stacey Hamm via email	<b>Date:</b>	March 7, 2023
<b>Approved for consideration:</b>	Assistant County Administrator	Aric A Jensen, AICP	
<b>Meeting/Committee</b>	Regular Session		
<b>Subject</b>	HOME-ARP - Allocation Plan Approval		

**RECOMMENDED/REQUESTED ACTION:**

The Office of Community Development seeks approval for the HOME-ARP Allocation Plan to be submitted to HUD by March 31, 2023 to secure the \$2,696,855 in funds allocated to Richland County. The plan is currently being developed by Urban Design Ventures and will go on public display Monday, March 3rd for viewing and comments (see attached schedule).

Request for Council Reconsideration:  Yes

**FIDUCIARY:**

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

**ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:**

Richland County’s HOME-ARP allocation is \$2,696,855 with a performance period of 7 years. We will need to set up in Central Square after funds are secured.

There will need to be a new grant build out for the JL or object codes.

*Applicable department/grant key and object codes:* GL: 1202992010 - General Government Grants

**OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:**

Non-applicable.

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

There are no legal concerns regarding this matter.

**REGULATORY COMPLIANCE:**

In accordance with the applicable statutes and the regulations governing the HOME-ARP Allocation Plan, Richland County is expected to certify that the following will be followed:

1. Affirmatively Further Fair Housing - 24 CFR 5.151 and 5.152.
2. Uniform Relocation Act and Anti-displacement and Relocation Plan - It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR Part 24.
3. Anti-Lobbying
4. Authority of Jurisdiction
5. Section 3 --It will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR Part 75.
6. HOME-ARP Certification - use HOME-ARP funds consistent with Section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) and the CPD Notice: Requirements for the Use of Funds in the HOME-American Rescue Plan Program

**MOTION OF ORIGIN:**

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

**STRATEGIC & GENERATIVE DISCUSSION:**

As a HUD jurisdiction currently running a HOME program, Richland County was awarded \$2,696,855 in HOME-ARP funds. HUD requires a detailed Allocation Plan for the County to receive its HOME-ARP allocation which must be submitted by March 31, 2023.

The American Rescue Plan (ARP) provides \$5 billion in total to assist individuals or households who are homeless or at risk of becoming homeless and other vulnerable populations, by providing housing, rental assistance, supportive services, and non-congregate shelter, to reduce homelessness and increase housing stability across the country. These grant funds will be administered through HUD’s HOME Investment Partnerships Program (HOME). HOME-ARP funds can be used for four eligible activities:

1. Production or Preservation of Affordable Housing
2. Tenant-Based Rental Assistance (TBRA)
3. Supportive Services, including homeless prevention services and housing counseling
4. Purchase and Development of Non-Congregate Shelter

Richland County's HOME-ARP Allocation Plan is being developed by Urban Design Ventures, LLC., the HUD consultants who assisted the Community Development staff with the creation of the 5-year Consolidated Plan submitted in July 2022. The HOME-ARP plan is an extension of the Con Plan, adding more funds to those available for housing focused activities. The process to develop the plan is multi-step and underway - including a survey of key community partners around housing. Below is the

schedule for the plan's development which will have a draft available for public review on Monday, March 6, 2023.

### **Richland County, SC HOME-ARP Allocation Plan Schedule**

CD team submits items to the County Council to get on the agenda	February 15, 2023
Send newspaper notice to the County	Friday, February 24, 2023
Newspaper notice runs	Friday, March 3, 2023
Draft Allocation Plan goes on public display	Monday, March 6, 2023
UDV will submit Resolution, SF 424 Form, and Certifications to the County	Monday, March 13, 2023
County holds public hearing	Monday, March 20th, Time: TBD
Draft Plan goes off public display	Monday, March 20, 2023
County Council approves the Allocation Plan	Tuesday, March 21, 2023
The County submits the Allocation Plan to HUD	on or before Friday, March 31, 2023

#### **ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INTIATIVE:**

##### *Goal 4: Plan for growth through inclusive and equitable infrastructure*

- Objective 4.4: Provide equitable living and housing options

These funds may be put to work to address housing insecurity with a variety of strategies, including the creation of affordable housing – both rentals and owner-occupied units.

##### *Goal 5: Achieve positive public engagement*

- Objective 5.1: Champion the organization through public engagement and communication on County wins
- Objective 5.2: Foster positive public engagement with constituents and create opportunities to allow us to “tell our own story”
- Objective 5.3: Complete and celebrate penny projects to create excitement in the community
- Objective 5.4: Develop a community engagement plan

The strategic use of these funds and major investments in affordable housing creation would provide significant opportunities for positive public engagement and communication about County wins. Utilized thoughtfully, making a difference in lives all across the county, is something we can all be proud of. Further, this HOME-ARP plan is being developed with feedback from key homeless and housing providers in the community and from a period of public comment and input, so the eventual execution of this plans is an example of citizen voices being heard and making a difference.

#### **ATTACHMENTS:**

1. Draft FY2021 Annual Action Plan Substantial Amendment – HOME ARP Allocation Plan





# **RICHLAND COUNTY, SOUTH CAROLINA**

2020 Hampton Street  
Columbia, SC 29201

---

## **FY 2021 Annual Action Plan - Substantial Amendment - HOME-ARP Allocation Plan**

*For Submission to HUD for the  
HOME Investment Partnership - American  
Rescue Plan (HOME-ARP) Program*

March 2023

Honorable Overture Walker  
Chair, County of Richland Council



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DRAFT

## Introduction

Established in 1785, Richland is the county seat of Richland County, South Carolina and is home to over 400,000 residents. Originally centered around agriculture (Richland County is named after the rich farming land used to support large indigo and cotton crops), Richland County is now the second-most populous county in South Carolina and is home to the military community at Fort Jackson, well-regarded educational institutions, and state-of-the-art hospital systems.

Richland County is a vibrant community with great amounts of racial, economic, and cultural diversity. According to the 2017-2021 American Community Survey, 40.0% of the County population is White and 47.3% of the population is Black or African American. The County also has a notable and growing Hispanic or Latino community which makes up 5.6% of the population. 16.5% of the County population is in poverty while the median income of \$56,137 is similar to the Statewide median income of \$59,318. Over half of all County residents live in unincorporated areas.

Richland County, South Carolina is an entitlement community under the U.S. Department of Housing & Urban Development's (HUD) for the following Federal Programs:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership (HOME)

Congress appropriated \$5 billion in funds under the American Rescue Plan (ARP) Act of 2021. These funds are to be used to assist the homeless and those persons and families who are at risk of becoming homeless. The U.S. Department of Housing and Urban Development (HUD) is administering this program and Richland County was allocated \$2,696,855 in HOME-ARP funds.

The Richland County Community Development Department, is the lead entity and the administrator for the HOME-ARP funds.

Richland County prepared this HOME-ARP Allocation Plan to address its local needs and to establish priorities for the use of HOME-ARP funds. The County must submit its Allocation Plan to HUD by March 31, 2023. In order to determine the County's needs, interviews, video conferences, and agency surveys were held with various housing providers, social service agencies, the Continuum of Care members, advocacy groups, etc. Agencies and organizations that serve all the qualifying populations were contacted and interviewed or asked to complete an agency survey.

The Continuum of Care (COC) was established by the South Carolina legislature in 1983 and is a program that serves children with the most severe and complex emotional or behavioral health

challenges through a strengths-based and culturally competent service delivery model. Through Wraparound services, its objective is to empower youth and families to realize their hopes and dreams, decrease out of home placements, improve school attendance and performance, decrease interactions with the legal system, and enhance the overall quality of life of the child. The Continuum of Care is divided up into four (4) regions. Richland County is located in Region A Midlands. This region consists of the following counties: Aiken, Barnwell, Chester, Fairfield, Lancaster, Lexington, **Richland**, and York.

The Midlands Area Consortium for the Homeless (MACH), is a coalition of over 50 organizations and individuals representing Richland County and 13 other counties in central South Carolina. Homeless service providers track the needs of individuals experiencing homelessness through the Homeless Information Management System (HMIS) maintained by the United Way of the Midlands.

The Columbia/Midlands CoC cooperatively worked together with Richland County in identifying the needs and gaps in the system to end homelessness in the County and the region.

#### **HOME-ARP Eligible Projects/Activities:**

The following projects/activities are eligible with the HOME-ARP funds:

##### **1. Production or Preservation of Affordable Rental Housing**

- Acquisition, construction of affordable rental housing for individuals and families that are part of the Qualifying Populations.
- May include single family or multifamily housing, transitional or permanent housing, group homes, single room occupancy (SRO) units, and manufactured housing.

##### **2. Tenant Based Rental Assistance**

- Providing payments to a tenant to cover housing and housing-related costs, including rental assistance, security deposit assistance, utility deposits, and utility payments to households that are part of the Qualifying Populations.

##### **3. Supportive Services**

- Providing supportive services to members of the Qualifying Populations under three categories:
  - McKinney-Vento Supportive Services
  - Homelessness Prevention Services
  - Housing Counseling Services

**4. Purchase and Development of Non-Congregate Shelter**

- Acquisition, construction, or rehabilitation of non-congregate shelter units to service individuals and families that are part of the four (4) Qualifying Populations.

**HOME-ARP Qualifying Populations:**

The HOME-ARP Program has the following four (4) Qualifying Populations:

**1. Homeless****2. At Risk of Homelessness**

- An individual or family who is extremely low income (<30% AMI), does not have support networks, and meets at least one of the conditions for homelessness (24 CFR 91.5).

**3. Fleeing, or Attempting to Flee Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking****4. Other populations who do not qualify under any of the populations above but meet one of the following criteria:**

- Those who are currently housed due to temporary or emergency assistance or need additional assistance or services to avoid a return to homelessness.
- Populations at Greatest Risk of Housing Instability.
  - Households whose income is <30% AMI and are experiencing severe cost burden.
  - Households whose income is <50% AMI and meet one of the criteria for being At Risk of Homelessness.

In compliance with the HUD regulations, Richland County has prepared a substantial amendment to its FY 2021 Annual Action Plan in order to submit the HOME-ARP Allocation Plan in IDIS.

A “draft” of the FY 2021 Annual Action Plan - Substantial Amendment - HOME-ARP Allocation Plan was placed on public display on the County’s website at <https://www.richlandcountysc.gov>. Copies of the Allocation Plan were also available at the Richland County Government, Community Planning & Development Department, Community Development Division, 2020 Hampton Street, Suite 3058, Columbia, SC 29204. The display period started on Monday, March 6, 2023 through Monday, March 20, 2023 for a 15-day display period. A Public Hearing was held on Monday, March 20, 2023 at 6:00 PM in the County Council Chambers located at 2020 Hampton Street, Columbia, South Carolina 29201 to present the proposed HOME-ARP Allocation Plan and solicit resident comments. Upon completion of the 15-day comment period and approval by Richland County Council, Richland County will submitted the FY 2021 Annual Action Plan - Substantial

Amendment - HOME-ARP Allocation Plan to the U.S. Department of Housing and Urban Development through IDIS on Friday, March 31, 2023.

DRAFT

## Consultation

### ***Describe the consultation process including methods used and dates of consultation:***

During the consultation process, Richland County staff consulted with stakeholders, agencies/organizations, and housing providers that are part of the following categories:

- The CoC serving the County’s geographic area,
- homeless service providers,
- domestic violence service providers,
- veterans’ groups,
- public housing agencies (PHAs), and
- public agencies that address the needs of the qualifying populations, and public or private organizations that address fair housing, civil rights, and the needs of persons with disabilities.

The HOME-ARP Consultation Milestones are the following:

HOME-ARP Consultation Milestones	
Consultation	May 2022 through March 2023
Newspaper Notice	Friday, March 3, 2023
On Display	Monday, March 6, 2023
Public Hearing	Monday, March 20, 2023 at 6:00 PM
Off Display	Monday, March 20, 2023
County Council Approval	Tuesday, March 21, 2023

Richland County held stakeholders meetings and sent out surveys to agencies/organizations between May 2022 through March 2023.

The County ran a newspaper notice in the “The State” on Friday, March 3, 2023. In the notice it states that the “Draft” HOME-ARP Allocation Plan was on public display for fifteen (15) days on the County’s website at: <https://www.richlandcountysc.gov> and at the following locations Richland County Government, Community Planning & Development Department, Community Development Division 2020 Hampton Street, Suite 3058, Columbia, SC 29204.

The Public Hearing was held on Monday, March 20, 2023 at 6:00 PM to discuss the proposed HOME-ARP Allocation Plan and solicit stakeholders’ comments on the Plan.

County Council approved the HOME-ARP Allocation Plan at its regular County Council meeting on Tuesday, March 21, 2023.

DRAFT



**List the organizations consulted:**

Agency/Organization Consulted	Type of Agency/Organization	Method of Consultation	Feedback
Richland County	Government	In-person meetings	Richland County was involved in all meetings and was responsible for gathering a list of contacts and participated in asking questions and communicating with local stakeholders.
Columbia Housing Authority	Public Housing Agency (PHA)	In-person meeting (5/10/2022), Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• Wraparound services for mental health issues</li> <li>• Security deposit assistance</li> <li>• Affordable, available housing (1-2 bedroom units)</li> <li>• Financial literacy programs</li> <li>• Access to jobs with wages that allow families to maintain stable housing</li> <li>• Home maintenance assistance</li> </ul>
Mental Illness Recovery Center, Inc. (Mirci)	Homeless Services Provider, Public Agencies that Address the Needs of the Qualifying Populations, and Public or Private Organizations that Address Fair Housing, Civil Rights, and the Needs of Persons with Disabilities	In person meeting (5/11/2022), Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• Affordable housing</li> <li>• Supportive housing for chronically homeless</li> <li>• Rapid rehousing</li> <li>• SRO units</li> <li>• Assistance for cost-burdened renters</li> <li>• Specialized housing for people leaving institutional settings</li> <li>• Non-congregate shelter to supplement existing shelter facilities</li> <li>• Housing for people at 30-50% AMI should be prioritized</li> <li>• Healthcare and mental healthcare</li> </ul>

<b>Catholic Charities of the Midlands</b>	Homeless and Domestic Violence Service Providers, Public Agencies that Address the Needs of the Qualifying Populations, and Public or Private Organizations that Address Fair Housing, Civil Rights, and the Needs of Persons with Disabilities	In person meeting (5/11/2022)	Identified the following needs: <ul style="list-style-type: none"> <li>• More programs to meet the needs of people so they don't have to keep coming back for assistance</li> </ul>
<b>Homeless No More</b>	Homeless and Domestic Violence Service Providers	In person meeting (5/11/2022), Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• More capacity for family shelters</li> <li>• Affordable units for 30-50% AMI</li> <li>• Access to homeless services after business hours</li> <li>• Wraparound services for all family members</li> </ul>
<b>Live Oak Place</b>	Homeless and Domestic Violence Service Providers	In person meeting (5/11/2022)	Identified the following needs: <ul style="list-style-type: none"> <li>• Affordable housing</li> </ul>
<b>Austin Wilkes Society</b>	Homeless and Domestic Violence Service Providers, Veterans Groups	In person meeting (5/11/2022)	Identified the following needs: <ul style="list-style-type: none"> <li>• Affordable housing, especially for veterans</li> <li>• Targeting men for assistance</li> </ul>
<b>Family Promise of the Midlands</b>	Homeless and Domestic Violence Service Providers	In person meeting (5/11/2022)	Identified the following needs: <ul style="list-style-type: none"> <li>• Affordable housing</li> </ul>

<b>Oliver Gospel</b>	Homeless and Domestic Violence Service Providers	In person meeting (5/11/2022)	Identified the following needs: <ul style="list-style-type: none"> <li>• Long term care for homeless</li> <li>• Mental health treatment/screening for women’s shelter</li> </ul>
<b>Shepherds Transformation</b>	Homeless and Domestic Violence Service Providers, Veterans Groups	In person meeting (5/11/2022), Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• Female veterans supportive housing</li> </ul>
<b>Home Works of America</b>	Public Agencies that Address the Needs of the Qualifying Populations, and Public or Private Organizations that Address Fair Housing, Civil Rights, and the Needs of Persons with Disabilities	In person meeting (5/12/2022). Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• Housing rehabilitation, especially for seniors                         <ul style="list-style-type: none"> <li>○ People are living in deteriorating family homes</li> </ul> </li> </ul>
<b>Pathways to Healing</b>	Homeless and Domestic Violence Service Providers, Public Agencies that Address the Needs of the Qualifying Populations, and Public or Private Organizations that Address Fair Housing, Civil Rights, and the	In person meeting (5/12/2022). Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• More shelter beds</li> <li>• Permanent housing solutions</li> <li>• Transportation services to resources</li> </ul>

	Needs of Persons with Disabilities		
<b>Richland County School District One/McKinney-Vento Office</b>	Public Agencies that Address the Needs of the Qualifying Populations, and Public or Private Organizations that Address Fair Housing, Civil Rights, and the Needs of Persons with Disabilities	Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• Transportation services</li> <li>• Affordable housing</li> <li>• Free or pro-bono legal assistance</li> <li>• Assistance for delinquent utility bills</li> <li>• Family shelters which allow for older male children</li> </ul>
<b>SC UpLift Community Outreach</b>	Public Agencies that Address the Needs of the Qualifying Populations, and Public or Private Organizations that Address Fair Housing, Civil Rights, and the Needs of Persons with Disabilities	In person meeting (5/12/2022), Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• Coordination between service providers</li> <li>• Affordable housing</li> <li>• Housing counseling services</li> <li>• Access to employment with a livable wage</li> </ul>
<b>The Cooperative Ministry</b>	Public Agencies that Address the Needs of the Qualifying Populations, and Public or Private Organizations that Address Fair	In person meeting (5/11/2022), Survey	Identified the following needs: <ul style="list-style-type: none"> <li>• Affordable housing</li> <li>• Behavioral healthcare</li> <li>• Legal services</li> <li>• Short-term rent/mortgage and utility assistance</li> <li>• Home repairs/rehabilitation</li> <li>• Family beds, especially for families with teenage sons</li> </ul>

	Housing, Civil Rights, and the Needs of Persons with Disabilities		<ul style="list-style-type: none"><li>• Shelter staffing</li></ul>
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***Summarize feedback received and results of upfront consultation with these entities:***

During the HOME-ARP Consultation, the following priority needs for the qualifying populations were stressed:

- Need for more affordable rental housing
- Need for supportive services such as counseling, life skills training, case management, childcare, mental health services, transportation, legal services, job training, etc.
- Need for rental and utility assistance
- Need for transitional housing
- Need for more shelter beds
- Need for funds to rehabilitate emergency shelters, SRO's, transitional and permanent housing
- Need for family shelters that allow older male children
- Need for funds for rapid re-housing
- Need for funds to assist cost-burdened renters
- Need for specialized housing for people leaving institutional settings
- Need for non-congregate shelter to supplement existing shelter facilities

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## Public Participation

***Describe the public participation process, including information about and the dates of the public comment period and public hearing(s) held during the development of the plan:***

- ***Date(s) of public notice:*** 3/3/2023
- ***Public comment period:*** start date – 3/6/2023 end date - 3/20/2023
- ***Date(s) of public hearing:*** 3/20/2023

***Describe the public participation process:***

Richland County held one (1) public hearing for consultation with County residents, non-profit agencies and/or organizations, public housing authority, housing providers, Continuum of Care members, etc. on the “Draft” HOME-ARP Allocation Plan. During the public hearing, the County staff discussed the process followed in the development of the HOME-ARP Allocation Plan. This included interviews, virtual conferences, agency/organization surveys, and comments made.

The public hearing notice for Richland County HOME-ARP Allocation Plan was published in the “The State” a local newspaper of general circulation in the County, on Friday, March 3, 2023.

The fifteen (15) day public comment period on the “Draft” HOME-ARP Allocation Plan was from Monday, March 6, 2023 through Monday, March 20, 2023. Richland County placed the “Draft” HOME-ARP Allocation Plan on the County’s website at: <https://www.richlandcountysc.gov> and at the following locations Richland County Government, Community Planning & Development Department, Community Development Division 2020 Hampton Street, Suite 3058, Columbia, SC 29204.

The public and private agencies were able to provide additional comments, via email to Ms. Callison Richardson, Community Development Division Manager at: [Richardson.Callison@richlandcountysc.gov](mailto:Richardson.Callison@richlandcountysc.gov) or via phone at (803) 576 - 2055 or via 711. Written comments were to be addressed to the Richland County Government, Community Planning & Development Department, Community Development Division, attention Ms. Callison Richardson, Community Development Division Manager, 2020 Hampton St. Suite 3058, Columbia, SC 29202.

***Describe efforts to broaden public participation:***

To broaden public participation, Richland County sent out an email blast to all agencies, organizations, and individuals on its list of non-profit agencies, housing providers, advocates, and

interested parties, that the “Draft” HOME-ARP Allocation Plan was on public display and the date, time, and place of the public hearing. This list consists of email addresses of names and organizations that have previously submitted funding requests or requested to be added to this list so they can be notified of future emails on funding options, proposed plans, and public hearings.

***Summarize the comments and recommendations received through the public participation process either in writing, or orally at a public hearing:***

A summary of comments and recommendations will be included after they are received.

***Summarize any comments or recommendations not accepted and state the reasons why:***

A summary of any comments or recommendations that were not accepted will be included after the comment period is concluded.

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## Needs Assessment and Gaps Analysis

In accordance with Section V.C.1 of the Notice (page 14), a PJ must evaluate the size and demographic composition of **all four** of the qualifying populations within its boundaries and assess the unmet needs of each of those populations. If the PJ does not evaluate the needs of one of the qualifying populations, then the PJ has not completed their Needs Assessment and Gaps Analysis. In addition, a PJ must identify any gaps within its current shelter and housing inventory as well as the service delivery system. A PJ should use current data, including point in time count, housing inventory count, or other data available through CoCs, and consultations with service providers to quantify the individuals and families in the qualifying populations and their need for additional housing, shelter, or services.

### OPTIONAL Homeless Needs Inventory and Gap Analysis Table

Homeless													
	Current Inventory					Homeless Population				Gap Analysis			
	Family		Adults Only		Vets	Family HH (at least 1 child)	Adult HH (w/o child)	Vets	Victims of DV	Family		Adults Only	
	# of Beds	# of Units	# of Beds	# of Units	# of Beds					# of Beds	# of Units	# of Beds	# of Units
Emergency Shelter	187	50	528	528	12								
Transitional Housing	150	41	239	239	111								
Permanent Supportive Housing	122	49	633	633	15								
Other Permanent Housing	57	19	19	19	0								
Sheltered Homeless						73	540	93	14				
Unsheltered Homeless						0	220	21	3				
<b>Current Gap</b>										0	0	232	232

**Suggested Data Sources:** 1. Point-In-Time Count (PIT); 2. Continuum of Care Housing Inventory Count (HIC); 3. Consultation

**OPTIONAL Housing Needs Inventory and Gap Analysis Table**

	Non-Homeless		
	Current Inventory	Level of Need	Gap Analysis
	# of Units	# of Households	# of Households
Total Rental Units	61,425		
Rental Units Affordable to HH at 30% AMI (At-Risk of Homelessness)	16,295		
Rental Units Affordable to HH at 50% AMI (Other Populations)	26,860		
0%-30% AMI Renter HH w/ 1 or more severe housing problems (At-Risk of Homelessness)		13,410	
30%-50% AMI Renter HH w/ 1 or more severe housing problems (Other Populations)		8,935	
<b>Current Gaps</b>			22,345

**Suggested Data Sources:** 1. American Community Survey (ACS); 2. Comprehensive Housing Affordability Strategy (CHAS)

**Describe the size and demographic composition of qualifying populations within the PJ's boundaries:**

**Homeless as defined in 24 CFR 91.5**

Based on the 2022 Point-In-Time Count, there were 987 homeless individuals identified in the Columbia/Midlands CoC. Of those people experiencing homelessness, 310 (31.4%) were white, 649 (65.8%) were black, and the remaining 2.8% were Asian (2), American Indian or Alaska Native (8), Native Hawaiian or Other Pacific Islander (3), and 15 identified as having multiple races. Additionally, 949 (96.1%) were Non-Hispanic/Non-Latino and 38 (3.9%) were Hispanic/Latino. Of the total, 642 (65.0%) were male, 197 (34.2%) were female, and 7 (0.7%) identified as transgender or gender non-conforming.

Among the population of those experiencing homelessness, there was a large portion that were identified as severely mentally ill (120 individuals, or 12.1% of the surveyed population) or having chronic substance abuse issues (95 individuals or 9.6% of the surveyed population).

***At Risk of Homelessness as defined in 24 CFR 91.5***

24 CFR 91.5 defines At Risk of Homelessness as an individual or family that has an annual income below 30% of the HUD area median family income, does not have sufficient resources or support networks and meets one of several other conditions. According to the most recently available CHAS data, 23,415 households (or 15.4% of the total households) live at 30% or below the HUD Area Median Income and of those 23,415 households: 18,900 have one or more housing problems, which includes either incomplete kitchen facilities, incomplete plumbing facilities, more than one person per room, or have a cost burden greater than 30%. The public housing waiting list remains closed with 2,221 people on the list for approximately 1,641 public housing units. The Section 8 Housing Choice Vouchers waiting list had approximately 2,458 people on the waiting list as of June 2022 for approximately 4,034 vouchers. The Section 8 Housing Choice Voucher waiting list is closed as of July 2022. The waiting lists for assisted housing in the form of public housing and Housing Choice Vouchers is almost double the number of available units/vouchers.

***Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD in the Notice***

During the 2022 Point-In-Time Count, there were 17 homeless individuals who were identified as victims of domestic violence in the Columbia/Midlands CoC.

Based off the consultation with the staff of Toby's Center (a local Women's shelter) there is limited shelter availability for women and families; challenges for those with disabilities; limited shelter space; and limited safe and affordable housing to assist moving toward self-sufficiency. There is also a need for more case management and support services to assist in overcoming barriers to securing and/or maintaining employment; high food costs; affordable transportation and/or childcare to maintain employment; and readily available services to address mental health issues.

Based on information from the most recent South Carolina Department of Public Safety report on domestic violence (2008-2012), approximately 16,421 victims of domestic violence live in Richland County, 12,805 (76.%) of whom are women and 74.4% of whom are Black/African-American. Services needed for this population may include emergency and transitional housing, social services, mental and physical healthcare.

The 2021 Federal Human Trafficking Report for the State of South Carolina indicated there were twenty-two (22) active criminal cases in South Carolina. There are a number of partner organizations in the Richland County Region that offer support services for victims providing residential programs for therapeutic and spiritual care; legal services; and advocacy.

***Other populations requiring services or housing assistance to prevent homelessness and other populations at greatest risk of housing instability, as defined by HUD in the Notice***

Those with disabilities are at greatest risk of housing instability. According to the most recent American Community Survey (ACS) data from 2021, there were 56,533 residents (14.1% of the total civilian non-institutionalized population) of Richland County who have a disability. This shows that a significant portion of the County's population is at a high risk of housing instability.

Among others who are at greatest risk of housing instability, those who are at or below 30% of the HUD Area Median Income are burdened by their monthly housing costs and are at a higher risk of becoming homeless. According to the most recent CHAS data, 23,415 (15.4%) households in the County have incomes at or below 30% of the HUD AMI. 47,580 (31.3%) households in the County have a housing cost burden of greater than 30% of their income.

Richland County also has a significant population of ALICE families. ALICE is an acronym for Asset Limited, Income Constrained, and Employed. This represents families who are employed and earn more than the Federal Poverty Level, but cannot otherwise keep up with the basic costs of living. According to the most recent ALICE Report data from 2018, 37% of households in Richland County have incomes that fall below the ALICE threshold, but above the Federal Poverty Level.

The public housing waiting list remains closed with 2,221 people on the list for approximately 1,641 public housing units. The Section 8 Housing Choice Vouchers waiting list had approximately 2,458 people on the waiting list as of June 2020 for approximately 4,034 vouchers. The Section 8 Housing Choice Voucher waiting list is closed as of July 2022. The waiting lists for assisted housing in the form of public housing and Housing Choice Vouchers is almost double the number of available units/vouchers.

***Identify and consider the current resources available to assist qualifying populations, including congregate and non-congregate shelter units, supportive services, TBRA, and affordable and permanent supportive rental housing (Optional):***

Richland County has a variety of resources to assist households experiencing homelessness and at-risk of becoming homeless through Federal, State, and local programs. Below is a summary of the resources available through the County:

- **Community Development Block Grant (CDBG) Program:**

Richland County is a federal entitlement grantee. In FY 2022 the County received \$1,693,966 of Community Development Block Grant (CDBG) funds. These funds are used for administration, public service activities, housing rehabilitation, infrastructure improvements, and economic development activities. Funding is provided to agencies for services to the homeless and those who are at-risk of becoming homeless. HUD has released the FY 2023 allocations and Richland County will receive \$1,723,394 in CDBG funds.

- **HOME Investment Partnership (HOME) Program:**

Richland County as a federal entitlement grantee, received \$868,030 in FY 2022 of HOME Investment Partnership (HOME) funds. These funds are used for HOME Administration, CHDO Set Aside, Development of Affordable Housing, and Down Payment Assistance. Funds support the acquisition, rehab, and development of affordable housing to the very low and low-income households. HUD has released the FY 2023 allocations and Richland County will receive \$941,966 in HOME funds.

- **Housing Inventory Count (HIC):**

The chart below is from the Continuum of Care Housing Inventory Count (HIC) for 2022.

	Family Units	Family Beds	Adult Only Beds	Child Only Beds	Total Year Round Beds	Seasonal	Overflow/ Vouchers	Subset of Total Bed Inventory		
								Chronic Beds	Veteran Beds	Youth Beds
<b>Emergency, Safe Haven and Transitional Housing:</b>	<b>91</b>	<b>337</b>	<b>767</b>	<b>12</b>	<b>1,116</b>	<b>269</b>	<b>19</b>	<b>N/A</b>	<b>123</b>	<b>58</b>
Emergency Shelter	50	187	528	12	727	269	19	N/A	12	44
Transitional Housing	41	150	239	0	389	N/A	N/A	N/A	111	14
<b>Permanent Housing:</b>	<b>84</b>	<b>241</b>	<b>722</b>	<b>2</b>	<b>965</b>	<b>N/A</b>	<b>N/A</b>	<b>228</b>	<b>424</b>	<b>22</b>
Permanent Supportive Housing	49	122	633	0	755	N/A	N/A	228	414	8
Rapid Re-Housing	16	62	70	2	134	N/A	N/A	N/A	10	14
Other Permanent Housing	19	57	19	0	76	N/A	N/A	N/A	0	0
<b>Grand Total:</b>	<b>175</b>	<b>578</b>	<b>1,489</b>	<b>14</b>	<b>2,081</b>	<b>269</b>	<b>19</b>	<b>228</b>	<b>547</b>	<b>80</b>

The Columbia/Midlands CoC has a total of 1,116 emergency, safe haven, and transitional housing beds and 965 units of permanent housing. Of those number of units, the CoC has 123 beds for

veterans and 58 beds for youth under emergency and transitional housing. The CoC has 424 permanent housing beds for veterans, 22 for youth, and 228 permanent supportive housing beds are for the chronic homeless.

Based off the 2022 Continuum of Care Housing Inventory Count (HIC), there were 727 year-round, emergency shelter beds; 389 year-round, transitional housing beds; 755 year-round permanent housing beds; 134 year-round, rapid re-housing beds; and 76 year-round, other permanent housing beds. These resources and supportive services are as follows:

- **Emergency Shelter:**
  - **Bethel United Methodist Church - Bethel Seasonal Shelter** - 36 bed
  - **CASA Family System - DV** - 18 beds
  - **Cumbee Center** - 20 beds
  - **Family Promise of the Midlands** - 18 beds
  - **Family Promise of York - Interf** - 3 beds
  - **Family Promise of York - Fresh Start** - 4 beds
  - **Fort Lawn Community Center - ESG-CV-ES** - 12 beds
  - **Homeless No More - Family Shelter** - 40 beds
  - **Midlands Housing Alliance - IWC** - 240 beds
  - **Midlands Housing Alliance - Transitions** - 111 beds
  - **Midlands Housing Alliance - Transitions - Extended Program** - 64 beds
  - **Midlands Housing Alliance - Transitions - Program Entry** - 85 beds
  - **Oliver Gospel Mission** - 71 beds
  - **Oliver Gospel - Rebuild ES** - 10 beds
  - **One80 Place - SSVF EHA** - 19 beds
  - **Palmetto Place Children's Shelter** - 12 beds
  - **Palmetto Place Children's Shelter BCP-ES** - 8 beds
  - **Pilgrim's Inn - Dorothy Bing In** - 32 beds
  - **Safe Passage - Rock Hill** - 6 beds
  - **Samaritan House Orangeburg** - 40 beds
  - **Sistercare - ES Lexington** - 22 beds
  - **Tender Hearts Ministries of York - County Tender Hearts** - 14 beds
  - **The Arc of the Midlands - Lexi** - 3 beds
  - **The Life House Womens Shelter** - 14 beds
  - **The Life House Womens Shelter** - 24 beds
  - **The Salvation Army - Rock Hill** - 14 beds
  - **The Salvation of Army - Aiken** - 50 beds
  - **Women's Shelter Phase II** - 14 beds
  - **Women's Shelter Phase I** - 11 beds

- **Transitional Housing:**
  - **Alston Wilkes Society GPD-Alston Wilkes VA Home** - 18 beds
  - **Battered But Not Broken** - 17 beds
  - **Christ Central Hannah House** - 30 beds
  - **Christ Central GPD** - 80 beds
  - **Homeless No More St Lawrence Place** - 64 beds
  - **MIRCI Transitional Living Program** - 10 beds
  - **Oliver Gospel MACH - Oliver Gospel Toby's** - 81 beds
  - **Oliver Gospel Mission** - 35 beds
  - **Palmetto Place Children's Shelter - PPCS** - 4 beds
  - **Pilgrim's Inn Tricia Court** - 5 beds
  - **Sistercare Transitional Housing** - 21 beds
  - **The Alston House MACH** - 10 beds
  - **The Turning Point of Chester** - 14 beds
  
- **Other Permanent Housing:**
  - **Columbia Housing Authority - Homeless Family Vouchers** - 63 beds
  - **Women's Shelter - Phase III** - 13 beds
  
- **Permanent Supportive Housing:**
  - **Columbia Housing Authority - CHA Housing First Expansion** - 17 beds
  - **Columbia Housing Authority - HP - Disabled** - 34 beds
  - **Columbia Housing Authority - VASH** - 414 beds
  - **Columbia Housing Authority - HUD HOPWA** - 14 beds
  - **Columbia Housing Authority - HP Chronic** - 20 beds
  - **Columbia Housing Authority - CHA Expansion Plus** - 11 beds
  - **MIRCI - SHP** - 29 beds
  - **MIRCI - SHP IV - Youth** - 8 beds
  - **MIRCI - Consolidated Home** - 32 beds
  - **MIRCI - Consolidated Home** - 69 beds
  - **MIRCI - Housing First** - 37 beds
  - **MIRCI - PH For Chronic Homeless** - 24 beds
  - **Pilgrim's Inn - Homebase I** - 9 beds
  - **Sistercare - Permanent II** - 37 beds
  
- **Rapid Re-Housing:**
  - **Housing Development Corporation of Roc** - 16 beds
  - **Midlands Housing Alliance - Transitions - ESG-CV** - 6 beds
  - **Midlands Housing Alliance** - 11 beds

- **Midlands Housing Alliance - Transitions - ESG-CV - 31 beds**
- **One80 Place - MACH SSVF - 14 beds**
- **One80 Place - HUD - 1 bed**
- **One80 Place - RRH - ESG - 22 beds**
- **One80 Place - Lexington - 9 beds**
- **Palmetto Place Children's Shelter PPCS - 8 beds**
- **Samaritan House Orangeburg - 6 beds**
- **The Salvation Army of Columbia - 6 beds**
- **The Salvation Army of Columbia - 4 beds**

***Describe the unmet housing and service needs of qualifying populations:***

***Homeless as defined in 24 CFR 91.5***

Based off the 2022 Point-In-Time Count there were 838 households that were experiencing homelessness, 618 households were sheltered and 220 households were unsheltered. The unmet housing need for this qualified population is to increase the number of shelter beds and permanent supportive housing units. Based on consultations with homeless providers, the greatest need is a place for persons who are staying in shelters to move on to permanent housing. This creates a “bottle neck” in the system. Therefore, agencies are requesting the need for the development of more permanent supportive housing units.

The supportive services which are needed, include the following: childcare, educational services, employment assistance and job training, food, housing searches and counseling services, legal services, life skills training, mental health services, outpatient health services, outreach services, substance abuse treatment services, transportation, case management, mediation, credit repair, services for special populations, and financial assistance. Supportive services are crucial to keeping this qualifying population housed.

***At Risk of Homelessness as defined in 24 CFR 91.5***

The primary unmet housing needs of those at risk of becoming homeless is the lack of affordable housing units in the County. At risk of homelessness refers to that qualifying population who live at 30% or below the HUD Area Median Income and have one or more housing problems. This qualifying population needs both short- and long-term rental and utility assistance, along with affordable permanent housing options. Developing affordable permanent supportive housing units will keep households that are cost burdened from becoming homeless.



The supportive services that are needed include the following: childcare, educational services, employment assistance and job training, food, housing searches, counseling services, legal services, life skills training, mental health services, outpatient health services, outreach services, substance abuse treatment services, transportation, case management, mediation, credit repair, landlord/tenant liaison, services for special populations, and financial assistance. Supportive services are crucial to keeping this qualifying population housed.

***Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking, as defined by HUD in the Notice***

Based on the 2022 Point-In-Time Count, there were 17 homeless individuals who were identified as victims of domestic violence.

Based on the consultation with the staff of Toby's Center (a local Women's shelter) there is limited shelter availability for women and families; challenges for those with disabilities; limited shelter space; limited safe and affordable housing to assist moving toward self-sufficiency. There is also a need for more case management and support services to assist in overcoming barriers to securing and/or maintaining employment; high food costs; affordable transportation and/or childcare to maintain employment; readily available services to address mental health issues.

The supportive services which are needed, include the following: childcare, education services, employment assistance and job training, food, housing searches, counseling services, legal services, life skills training, mental health services, outpatient health services, outreach services, substance abuse treatment services, transportation, case management, mediation, credit repair, landlord/tenant liaison, services for special populations, and financial assistance. Supportive services are crucial to keeping this qualifying population housed.

***Other populations requiring services or housing assistance to prevent homelessness and other populations at greatest risk of housing instability as defined by HUD in the Notice***

The unmet housing and service needs for other populations who are at greatest risk of housing instability include supportive services to help decrease their risk of housing instability by providing wrap-around services. These individuals may have a substance abuse, mental health issues, developed disability, and physical disabilities. To prevent housing instability, they need long term permanent housing assistance with case management and wrap-around support services. In addition, another population that is experiencing instability is the

physically disabled and the developmentally challenge. There is a need for long-term permanent housing that is accessible for these persons with disabilities. Developing affordable permanent supportive housing, will help households that are at the greatest risk of housing instability from becoming homeless.

The supportive services which are needed include the following: childcare, education services, employment assistance and job training, food, housing searches, counseling services, legal services, life skills training, mental health services, outpatient health services, outreach services, substance abuse treatment services, transportation, case management, mediation, credit repair, landlord/tenant liaison, services for special populations, and financial assistance. Supportive services are crucial to keeping this qualifying population housed.

***Identify any gaps within the current shelter and housing inventory as well as the service delivery system:***

Richland County's limited supply of affordable housing is the largest gap in the system. This gap is much larger than the available resources that the County has, but the County will use the HOME-ARP funds to leverage other funds to spread these funds out as much as possible to develop as many non-congregate shelter units and affordable permanent supportive housing units as possible.

Based on the 2022 Point-In-Time Count (PIT), there were 226 unsheltered homeless persons and 761 sheltered homeless in the Midlands region. With the emergency shelter beds near capacity, this leaves 232 homeless persons living on the streets and waiting to access shelter beds.

The Housing Authority is looking to take applications for project-based vouchers to help build the supply of more affordable units in the County.

***Under Section IV.4.2.ii.G of the HOME-ARP Notice, a PJ may provide additional characteristics associated with instability and increased risk of homelessness in their HOME-ARP allocation plan. These characteristics will further refine the definition of "other populations" that are "At Greatest Risk of Housing Instability," as established in the HOME-ARP Notice. If including these characteristics, identify them here:***

Richland County is not providing any additional characteristics associated with instability and increase risk of homelessness in the County's HOME-ARP Allocation Plan.

***Identify priority needs for qualifying populations:***

During the HOME-ARP Consultation, the following priority needs for the qualifying populations were stressed:

- Need for more affordable rental housing
- Need for supportive services such as counseling, life skills training, case management, childcare, mental health services, transportation, legal services, job training, etc.
- Need for rental and utility assistance
- Need for transitional housing
- Need for more shelter beds
- Need for funds to rehabilitate emergency shelters, SRO's, transitional and permanent housing
- Need for family shelters that allow older male children
- Need for funds for rapid re-housing
- Need for funds to assist cost-burdened renters
- Need for specialized housing for people leaving institutional settings
- Need for non-congregate shelter to supplement existing shelter facilities

***Explain how the PJ determined the level of need and gaps in the PJ's shelter and housing inventory and service delivery systems based on the data presented in the plan:***

Richland County determined the level of need and gaps in the shelter inventory, housing inventory, and service delivery system from the following sources:

- Stakeholders' Consultations
- Agency/Organization Surveys
- 2022 Point-In-Time Count (PIT)
- 2022 Housing Inventory Count (HIC)
- 2017-2021 American Community Survey Data (ACS Data)
- 2015-2019 Comprehensive Housing Affordability Strategy (CHAS)

Based on the above sources Richland County determined the level of need and gaps in its shelter inventory, housing inventory, and service delivery systems.

## HOME-ARP Activities

***Describe the method(s) that will be used for soliciting applications for funding and/or selecting developers, service providers, subrecipients and/or contractors:***

Richland County, Community Planning & Development Department, Community Development Division proposes to solicit HOME-ARP applications from non-profit and for-profit housing providers, private developers and/or social service providers to undertake eligible HOME-ARP projects/activities. The County will release a Notice of the Funding Available (NOFA) under the HOME-ARP Program in “the State.” Potential applicants will be forward to Richland County, Community Planning & Development Department, Community Development Division website <https://www.richlandcountysc.gov/Government/Departments/Community-Development> to fill out a funding request for their project/activity. The County’s Community Planning & Development Department, Community Development Division staff will send out an email to its list of organizations that have previously submitted funding requests or requested to be added to this list. This will notify agencies, organizations, and interested parties of the availability of the HOME-ARP funds. In addition, the County will post the availability of the HOME-ARP funds on the Richland County, Community Planning & Development Department, Community Development Division webpage.

Post on the County’s Community Planning & Development Department, Community Development Division website, potential applicants will be directed to the HOME-ARP Program to complete a Funding Application. In addition, the site will have links to the HOME-ARP Guidelines, Application Review Process, and instructions on how to complete the application.

The County’s Community Development staff will review the HOME-ARP Applications and rank them to see which applications address the needs identified in the HOME-ARP Allocation Plan. A review of how the applicant will help to develop and preserve the affordable housing stock in the County will be considered. In addition, the County Community Development staff will review how the funds will help support the needs of the homeless population by providing funds for supportive services. The County’s Community Development staff will evaluate if the applicant will leverage the HOME-ARP funds with private and other public funding sources.

***Describe whether the PJ will administer eligible activities directly:***

Richland County, Community Planning & Development Department, Community Development Division will manage the HOME-ARP program’s administration, monitoring, and planning components. The projects/activities will be carried out by subrecipients which are awarded the HOME-ARP funds.

***If any portion of the PJ's HOME-ARP administrative funds are provided to a subrecipient or contractor prior to HUD's acceptance of the HOME-ARP allocation plan because the subrecipient or contractor is responsible for the administration of the PJ's entire HOME-ARP grant, identify the subrecipient or contractor and describe its role and responsibilities in administering all of the PJ's HOME-ARP program:***

Not Applicable. Richland County has not provided any HOME-ARP funds to subrecipient(s) or contractors prior to HUD's acceptance of the HOME-ARP Allocation Plan.

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## Use of HOME-ARP Funding

*In accordance with Section V.C.2. of the Notice (page 4), PJs must indicate the amount of HOME-ARP funding that is planned for each eligible HOME-ARP activity type and demonstrate that any planned funding for nonprofit organization operating assistance, nonprofit capacity building, and administrative costs is within HOME-ARP limits.*

	Funding Amount	Percent of the Grant	Statutory Limit
Supportive Services	\$ 250,000.00		
Acquisition and Development of Non-Congregate Shelters	\$ 750,000.00		
Tenant Based Rental Assistance (TBRA)	\$ 0.00		
Development of Affordable Rental Housing	\$ 1,350,000.00		
Non-Profit Operating	\$ 0.00	0%	5%
Non-Profit Capacity Building	\$ 0.00	0%	5%
Administration and Planning	\$ 346,855.00	13%	15%
<b>Total HOME ARP Allocation:</b>	<b>\$ 2,696,855.00</b>		

***Describe how the PJ will distribute HOME-ARP funds in accordance with its priority needs identified in its needs assessment and gap analysis:***

Richland County developed the HOME-ARP Budget based on the identified needs from consultation with community stakeholders; agency/organization surveys; the assessment of the data obtained from the 2022 Point-In-Time Count (PIT); 2022 Continuum of Care Housing Inventory Count (HIC); 2017-2021 American Community Survey Data (ACS); 2015-2019 HUD Comprehensive Housing Affordability Strategy (CHAS); Asset Limited, Income Constrained, and Employed (ALICE); and other statistical data from stakeholders.

Richland County will allocate 9% of the funds for Supportive Services, 28% if the funds for the Acquisition and Development of Non-Congregate Shelters, 50% of the funds for the Development of Affordable Rental Housing, and 13% of the funds for Administration and Planning. The following is a breakdown of what each category covers:

- **Supportive Services** may include some of the following eligible services: childcare, education services, employment assistance and job training, food, housing search and counseling services, legal services, life skills training, mental health services, outpatient health services, outreach services, substance abuse treatment services, transportation, case management, mediation, credit repair, landlord/tenant liaison, services for special populations, and financial assistance.

- **Acquisition and Development of Non-Congregate Shelters** is for the development of private units or rooms for temporary shelter for persons and/or households that meet one or more of the definitions of qualifying populations. Funds can be used for the acquisition, new construction, rehabilitation of an existing structure, development costs, and replacement reserves.
- **Development of Affordable Rental Housing** is for the acquisition, construction, rehabilitation, development costs, relocation, and operating cost assistance/reserves.
- **Administration and Planning** will set aside 15% of the allocation to cover the cost to administer the HOME-ARP program by Richland County.

These allocations were derived from the data analysis and the key points that were articulated in the community stakeholders' meetings, agency/organization surveys, and interviews. It was overwhelmingly mentioned at the stakeholder meetings and interviews that there is a need for new development and preservation of the affordable housing stock in Richland County. This is followed by the need for wrap around supportive services.

The County is not allocating HOME-ARP funds to Tenant Based Rental Assistance (TBRA), Non-Profit Operating, and Non-Profit Capacity Building based on its analysis of the needs for the County.

***Describe how the characteristics of the shelter and housing inventory, service delivery system, and the needs identified in the gap analysis provided a rationale for the plan to fund eligible activities:***

The 2022 Point-In-Time Count reported 761 persons or 618 households living in Emergency Shelters/Transitional Housing and 226 persons or 220 households who were unsheltered. Richland County's housing market is seeing housing options being reduced because of the increase in the sales prices of houses, an increase in monthly rents, low vacancy rates, increases in utility costs, and inflation. These trends are leading to the lack of affordable housing options and the increase of households becoming cost burdened. Based on the statistics and the community consultation, the number one point that everyone mentioned was the need for more affordable housing in the County. The second item that was mentioned was the need to provide supportive services. These funds will be used to help the homeless and the persons at-risk of becoming homeless to be able to stay in the present housing.

The HOME-ARP funds will be used to assist the extremely low-income and the most at risk of homelessness.

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## HOME-ARP Production Housing Goals

***Estimate the number of affordable rental housing units for qualifying populations that the PJ will produce or support with its HOME-ARP allocation:***

### **Acquisition and Development of Non-Congregate Shelters:**

Richland County estimates it will assist in the development of at least ten (10) new non-congregate shelter beds using the HOME-ARP funds. This number was developed by the County staff, based off an estimated cost of approximately \$75,000 per bed, which would cover the acquisition of structures, rehabilitation, construction, development hard costs, related soft costs, and replacement reserves. Additional units could be developed, if applicants are able to leverage other funds as part of the HOME-ARP Application. The County in its application process, will encourage applicants to leverage other funds as part of their application.

These will be for the development of new non-congregate shelter units that will be available to all HOME-ARP qualifying populations because the needs of all four (4) qualifying populations are greater than the amount of HOME-ARP funds allocated to the County.

### **Development of Affordable Rental Housing:**

Richland County estimates it will assist in the development of seven (7) new affordable housing units using the HOME-ARP funds. This number was developed by the County staff, based off an estimated cost of approximately \$200,000 per unit, which would cover the acquisition, construction, rehabilitation, development costs, relocation, and operating cost assistance/reserves. Additional units can be developed if applicants are able to leverage other funds as part of the HOME-ARP Application. The County in its application process, will encourage applicants to leverage other funds as part of their application.

These will be new affordable rental units that will be available to all HOME-ARP qualifying populations because the needs of all four (4) qualifying populations are greater than the amount of HOME-ARP funds allocated to the County.

***Describe the specific affordable rental housing production goal that the PJ hopes to achieve and describe how the production goal will address the PJ's priority needs:***

Richland County, Community Development staff is looking to leverage the HOME-ARP funds with other Federal, State, local, and private funding sources. The goal is to use these other funding sources to develop more than ten (10) new non-congregate shelter units and seven (7) new affordable rental housing units. If other funds are not available, the County will only be able to fund projects with HOME-ARP funds.

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## Preferences

***Identify whether the PJ intends to give preference to one or more qualifying populations or a subpopulation within one or more qualifying populations for any eligible activity or project:***

Not Applicable. Richland County does not intend to give preference to one qualifying population versus another because there is a need for aid among all four (4) qualifying populations. The needs for all four (4) qualifying populations are greater than the amount of HOME-ARP funds the County has been allocated.

***If a preference was identified, explain how the use of a preference or method of prioritization will address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or subpopulation of qualifying population, consistent with the PJ's needs assessment and gap analysis:***

Not Applicable.

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## Referral Methods

***Identify the referral methods that the PJ intends to use for its HOME-ARP projects and activities. PJ's may use multiple referral methods in its HOME-ARP program. (Optional):***

Richland County intends to use the Coordinated Entry System (CES) for its HOME-ARP projects and activities. Coordinated Entry enables CoC providers and homeless assistance staff to make consistent decisions from available information, and to efficiently and effectively connect people in crisis to intervention that will rapidly end their homelessness.

***If the PJ intends to use the coordinated entry (CE) process established by the CoC, describe whether all qualifying populations eligible for a project or activity will be included in the CE process, or the method by which all qualifying populations eligible for the project or activity will be covered. (Optional):***

All HOME-ARP qualifying populations are eligible for a project or activity, and will be included in the CoC Coordinated Entry (CE) process.

***If the PJ intends to use the CE process established by the CoC, describe the method of prioritization to be used by the CE. (Optional):***

Richland County will follow the CoC Coordinated Entry (CE) method of prioritization by following the matching process and eventual referral linkage process which takes into account a set of prioritization criteria for each project type.

***If the PJ intends to use both a CE process established by the CoC and another referral method for a project or activity, describe any method of prioritization between the two referral methods, if any. (Optional):***

Not Applicable. Richland County intends to only use the Coordinated Entry System (CE) Process for the HOME-ARP funded projects.

## Limitations in a HOME-ARP rental housing or NCS project

***Describe whether the PJ intends to limit eligibility for a HOME-ARP rental housing or NCS project to a particular qualifying population or specific subpopulation of a qualifying population identified in section IV.A of the Notice:***

Richland County is not intending to limit eligibility for a HOME-ARP rental housing projects nor non-congregate shelters to a particular qualifying population or specific subpopulation. The need for affordable rental housing and non-congregate shelters has been identified for all four (4) qualifying populations. The County will solicit proposals for rental housing and non-congregate shelter projects for all four (4) qualifying populations. Evaluations of applications will be made and selection will be based on the best proposal submitted by Richland County Community Development staff.

***If a PJ intends to implement a limitation, explain why the use of a limitation is necessary to address the unmet need or gap in benefits and services received by individuals and families in the qualifying population or subpopulation of qualifying population, consistent with the PJ's needs assessment and gap analysis:***

Not Applicable. Richland County does not intend to implement a limitation on the HOME-ARP Program.

***If a limitation was identified, describe how the PJ will address the unmet needs or gaps in benefits and services of the other qualifying populations that are not included in the limitation through the use of HOME-ARP funds (i.e., through another of the PJ's HOME-ARP projects or activities):***

Not Applicable.

## HOME-ARP Refinancing Guidelines

Richland County does not intend to use HOME-ARP funds to refinance existing debt secured by multifamily rental housing that is being rehabilitated with HOME-ARP funds. Not Applicable.

- ***Establish a minimum level of rehabilitation per unit or a required ratio between rehabilitation and refinancing to demonstrate that rehabilitation of HOME-ARP rental housing is the primary eligible activity***

Not Applicable.

- ***Require a review of management practices to demonstrate that disinvestment in the property has not occurred; that the long-term needs of the project can be met; and that the feasibility of serving qualified populations for the minimum compliance period can be demonstrated.***

Not Applicable.

- ***State whether the new investment is being made to maintain current affordable units, create additional affordable units, or both.***

Not Applicable.

- ***Specify the required compliance period, whether it is the minimum 15 years or longer.***

Not Applicable.

- ***State that HOME-ARP funds cannot be used to refinance multifamily loans made or insured by any federal program, including CDBG.***

Not Applicable.

- ***Other requirements in the PJ's guidelines, if applicable:***

Not Applicable.

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION, OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA APPROVING THE SUBMISSION OF THE FY 2021 ANNUAL ACTION PLAN – SUBSTANTIAL AMENDMENT TO INCLUDE THE HOME-ARP ALLOCATION PLAN TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

**WHEREAS**, Congress appropriated \$5 billion in funds under the American Rescue Plan (ARP) Act of 2021; and

**WHEREAS**, these funds are to be used to assist the homeless and those persons and families who are at risk of becoming homeless; and

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) is administering this program and Richland County was allocated \$2,696,855 in HOME-ARP funds; and

**WHEREAS**, Richland County prepared a HOME-ARP Allocation Plan which is included as a Substantial Amendment to the County’s FY 2021 Annual Action Plan; and

**WHEREAS**, a draft of the FY 2021 Annual Action Plan - Substantial Amendment containing the HOME-ARP Allocation Plan was on public display from Monday, March 6, 2023 through Monday, March 20, 2023 and the County held a public hearing on Monday, March 20, 2023 concerning said amendment, and the comments of various agencies, groups, and citizens were taken into consideration in the preparation of the final document.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AND IT IS HEREBY RESOLVED BY THE AUTHORITY OF THE SAME, AS FOLLOWS:**

**SECTION 1.** That the Annual Action Plan – Substantial Amendment which includes the HOME-ARP Allocation Plan for the FY 2021 is hereby in all respects APPROVED.

**SECTION 2.** That the County is COGNIZANT of the conditions that are imposed in the undertaking and carrying out of the HOME Investment Partnerships - American Rescue Plan (HOME-ARP) Program with Federal financial assistance, including those relating to (a) the relocation of site occupants, (b) the prohibition of discrimination because of race, color, age, religion, sex, disability, familial status, or national origin, and (c) other assurances as set forth under the certifications.

**SECTION 3.** That the County Administrator or his designee, on behalf of Richland County, South Carolina is AUTHORIZED to file an Application for financial assistance with the U.S. Department of Housing and Urban Development, which has indicated its

willingness to make available funds to carry out the HOME-ARP Program in the amount of \$2,696,855 and is further AUTHORIZED to act as the representative of Richland County to sign any and all documents in regard to these programs.

**SECTION 4.** That the County Administrator or his designee, on behalf of Richland County, South Carolina, is AUTHORIZED to provide assurances and/or certifications as required by the Housing and Community Development Act of 1974, as amended; the National Affordable Housing Act of 1990, as amended; and any other supplemental or revised data which the U.S. Department of Housing and Urban Development may request in review of the County's Application.

**ADOPTED INTO A RESOLUTION THIS 21<sup>ST</sup> DAY OF MARCH 2023 BY THE COUNTY COUNCIL OF RICHLAND, SOUTH CAROLINA.**

**RICHLAND COUNTY, SC**

\_\_\_\_\_  
**Leonardo Brown, County Administrator**

**ATTEST:**

\_\_\_\_\_  
**, County Clerk**



## Richland County Council Request for Action

**Subject:**

Case #22-038MA  
Drew Huddleston  
RU to GC (2.72 Acres)  
W/S Hard Scrabble Road  
TMS# R20300-04-17

**Notes:**

First Reading: February 28, 2023  
Second Reading: March 7, 2023  
Third Reading: March 21, 2023 {Tentative}  
Public Hearing: February 28, 2023

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-23HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # 20300-04-17 FROM RURAL DISTRICT (RU) TO GENERAL COMMERCIAL DISTRICT (GC); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # 20300-04-17 from Rural District (RU) to General Commercial District (GC).

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

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

Section IV. Effective Date. This ordinance shall be effective from and after \_\_\_\_\_, 2023.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Overture Walker, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2023

\_\_\_\_\_  
Anette A. Kirylo  
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: February 28, 2023  
First Reading: February 28, 2023  
Second Reading: March 7, 2023  
Third Reading: March 21, 2023

## Richland County Council Request for Action

**Subject:**

Case # 22-039MA  
Richland County  
M-1 to HI (574.57 Acres)  
Bluff Road and Longwood Road  
TMS# R18900-02-22, R16100-02-03, R16200-03-02, R16100-02-22, R18900-01-01, and  
R16100-02-07

**Notes:**

First Reading: February 28, 2023  
Second Reading: March 7, 2023  
Third Reading: March 21, 2023 {Tentative}  
Public Hearing: February 28, 2023

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-23HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # R18900-02-22, R16100-02-03, R16200-03-02, R16100-02-22, R18900-01-01, AND R16100-02-07 FROM LIGHT INDUSTRIAL DISTRICT (M-1) TO HEAVY INDUSTRIAL DISTRICT (HI); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # R18900-02-22, R16100-02-03, R16200-03-02, R16100-02-22, R18900-01-01, and R16100-02-07 from Light Industrial District (M-1) to Heavy Industrial District (HI).

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

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

Section IV. Effective Date. This ordinance shall be effective from and after \_\_\_\_\_, 2023.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Overture Walker, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2023

\_\_\_\_\_  
Anette A. Kirylo  
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: February 28, 2023  
First Reading: February 28, 2023  
Second Reading: March 7, 2023  
Third Reading: March 21, 2023

## Richland County Council Request for Action

**Subject:**

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Scout Motors, Inc., a company previously identified as Project Connect, to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; authorizing the execution and delivery of a project development agreement or memorandum of understanding by Richland County, South Carolina; and other related matters

**Notes:**

First Reading: February 7, 2023

Second Reading: February 14, 2023

Third Reading: March 21, 2023 {Tentative}

Public Hearing: March 21, 2023

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND SCOUT MOTORS, INC., A COMPANY PREVIOUSLY IDENTIFIED AS PROJECT CONNECT, TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AUTHORIZING THE EXECUTION AND DELIVERY OF A PROJECT DEVELOPMENT AGREEMENT OR MEMORANDUM OF UNDERSTANDING BY RICHLAND COUNTY, SOUTH CAROLINA; AND OTHER RELATED MATTERS.**

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

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

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

WHEREAS, Scout Motors, Inc., together with or through one or more to-be-formed affiliates or subsidiaries (collectively, “Sponsor”), desires to establish a manufacturing facility in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$2,000,000,000 and the creation of 4,000 new, full-time jobs; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into (a) a Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement with the Sponsor, the form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (i) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; and (ii) locating the Project in the Park; and (iii) providing Infrastructure Credits and other incentives, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure, (b) a Project Development Agreement with the Sponsor, the Department of Commerce, the South Carolina Coordinating Council for Economic Development and the City of Columbia, South Carolina with respect to the Project, and (c) a lease or purchase agreement with respect to the real property on which the Project and related infrastructure will be located.

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

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

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

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

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

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

**Section 3. Approval of Project Development Agreement; Authorization to Execute and Deliver Project Development Agreement.** The Chair, the County Administrator and the Director of Economic Development, acting on the advice of and in consultation with counsel to the County, are each authorized on behalf of and in the name of the County to negotiate the form, terms and provisions of the Project Development Agreement. The Chair is authorized and directed to execute the Project Development Agreement in the name of and on behalf of the County in such final form as may be approved by the Chair, the County Administrator or the Director of Economic Development (which execution by the Chair shall be conclusive evidence of the approval of the final form of the Project Development Agreement), and the Clerk to County Council is hereby authorized and directed to attest the Project Development Agreement and to deliver the Project Development Agreement to the other parties thereto.

**Section 4. Real Property Considerations** The County is authorized to acquire (to the extent not already owned by the County) and subsequently transfer, sell or lease to the Sponsor (or to such other parties as may benefit and be in furtherance of the Project) approximately 1,960 acres of real property ("Property") located in the County and preliminarily identified on Exhibit B hereto. The Chair, the County Administrator and the Director of Economic Development, acting on the advice of and in consultation with counsel to the County, are each authorized and directed to negotiate the form, terms and provisions of a lease or purchase agreement (collectively, "Real Property Agreement") on behalf of and in the name of the County and to determine the final details (e.g. number of acres, terms, transferee or lessee and price) with respect to the Property. The Chair is authorized and directed to execute the Real Property Agreement in the name of and on behalf of the County in such final form as may be approved by the Chair, the County Administrator or the Director of Economic Development (which execution by the Chair shall be conclusive evidence of the approval of the final form of the Real Property Agreement), and the Clerk to County Council is hereby

authorized and directed to attest the Real Property Agreement and to deliver the Real Property Agreement to the other parties thereto.

The Chair, the County Administrator and the Director of Economic Development are each authorized and directed, in the name of and on behalf of the County, to take such further actions and to execute such further documents in addition to the Real Property Agreement as may be necessary, to accomplish the lease or transfer of the Property or interests in the Property.

**Section 5. *Inclusion within the Park.*** The County is authorized to locate the Property and the Project in the Park boundaries. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the creation, if necessary, of the Park and the expansion of the Park boundaries. The creation and expansion of the Park's boundaries is complete on adoption of this Ordinance by County Council and such action by Fairfield County and other applicable city or municipality as may be necessary pursuant to the terms of the agreement governing the Park or by State law.

**Section 6. *Grant Administration.*** To the extent the County receives any third-party grant funds related to the Project, the County is authorized to accept and administer those funds for the Project's benefit according to the terms of any documents governing the receipt and expenditure of the grant funds. The County is further authorized to amend any current contracts and negotiate and enter into additional contracts with consultants or other professionals as may be necessary to assist the County in administering the grant funds and the activities to be undertaken with such funds, subject to compliance with all federal, state and local laws and regulations, including but not limited to, minority/disadvantaged business participation, assurance, compliance and non-collusion, commercial nondiscrimination and drug-free workplaces. The Chair, the County Administrator and the Director of Economic Development are each authorized to select such consultants or professionals and negotiate and execute such grant agreements or amendments or additional contracts on behalf of and in the name of the County.

**Section 7. *Approval of Intergovernmental Agreement with Blythewood.*** The County is authorized to execute an Intergovernmental Agreement ("IGA") with the Town of Blythewood ("Town"), the form of which is attached as Exhibit C, which sets forth the agreement between the County and the Town relating to the sharing of responsibilities for the Property with respect to permitting, zoning, site plan review and other land use regulation functions. The Chair is authorized and directed to execute the IGA in the name of and on behalf of the County subject to the approval of any revisions or changes by the Chair, the County Administrator or the Director of Economic Development on advice of and in consultation with counsel to the County. The execution by the Chair shall be conclusive evidence of the approval of the final form of the IGA. The Clerk to County Council is hereby authorized and directed to attest the IGA and to deliver the IGA to the other party thereto.

**Section 8. *Further Assurances.*** The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or the Director of Economic Development, as appropriate, to take whatever further action and for the Chair, the County Administrator, and the Director of Economic Development to negotiate, execute and deliver whatever further documents or agreements, including specifically any agreements with any other governmental entities in connection with the establishment of the Project in the County, and for the Clerk to County Council to attest the same, as may be appropriate (a) to effect (i) this Ordinance, (ii) the inducement of the Sponsor to establish the Project, make the investment and create the jobs in the County, and (iii) the incentives offered to the Sponsor under this Ordinance, the Fee Agreement, the Project Development Agreement or the Real Property Agreement and (ii) to carry out the obligations of the County in the Fee Agreement, the Project Development Agreement or the Real Property Agreement.



**Section 9. *Ratification of Prior Acts.*** Any action taken in the name of and on behalf of the County in connection with the establishment of the Project in the County, including the negotiation, execution and delivery of agreements or contracts, prior to the effective date of this Ordinance is hereby approved, ratified and confirmed.

**Section 10. *Savings Clause.*** The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

**Section 11. *General Repealer.*** Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 12. *Effectiveness.*** This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: February 7, 2023  
Second Reading: February 14, 2023  
Public Hearing: March 21, 2023  
Third Reading: March 21, 2023

**EXHIBIT A**  
**FORM OF FEE AGREEMENT**

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

**BETWEEN**

**[SCOUT MOTORS INC.]**

**AND**

**RICHLAND COUNTY, SOUTH CAROLINA**

**EFFECTIVE AS OF [APPROVAL DATE ], 2023**

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**SUMMARY OF CONTENTS OF  
FEE AGREEMENT**

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

<b>PROVISION</b>	<b>BRIEF DESCRIPTION</b>	<b>SECTION REFERENCE</b>
<b>Sponsor Name</b>	[Scout Motors, Inc.]	<b>1.1</b>
<b>Project Location</b>	[Blythewood Industrial Park]	<b>Exhibit A</b>
<b>Tax Map No.</b>	TBA	Exhibit A
<b>FILOT</b>		
• Phase Exemption Period	40 years	1.1
• Contract Minimum Investment Requirement	2,000,000,000	1.1
• Contract Minimum Jobs Requirement	4,000	1.1
• Investment Period	13 years – extendable to 15 years	1.1
• Fair Market Value	Initially at original cost basis and then subject to appraisal by the Department every five years	4.1(a)
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• Fixed or Five-Year Adjustable Millage	fixed	4.1(a)
• Claw Back Information	Maybe subject to claw back if Act Minimum Investment is not achieved	4.1
<b>Multicounty Park</b>	[TBD – Scout Motors to Advise]	1.1
<b>Infrastructure Credit</b>		
• Brief Description	In an amount not to exceed 50% in any year	Exhibit D
• Credit Term	50 years	Exhibit D
• Claw Back Information	May be subject to prospective reduction if the Contract Minimum Investment Requirement and Contract Minimum Jobs Requirement are not met	Exhibit E
<b>Other Information</b>		

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

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of [], 2023 (as may be modified from time to time, “*Effective Date*”), between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and a company currently known to the County as [Scout Motors Inc., a Delaware corporation] (“*Sponsor*”). The County, Sponsor and any Sponsor Affiliates (as defined herein) may be collectively referred to as “*Parties*.”

### WITNESSETH:

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

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

(c) The Sponsor has committed to establish a manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$2,000,000,000 and the creation of 4,000 new full-time jobs;

(d) By an ordinance enacted on [Approval Date], 2023, County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor to locate its Facility in the County.

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

### ARTICLE I DEFINITIONS

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

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

“*Act Minimum Investment Requirement*” means an investment of at least \$400,000,000 in the Project within eight years of the Commencement Date pursuant to Sections 12-44-30(7) and 12-44-30(13) of the Act.

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



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

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

**"Commencement Date"** means the last day of the property tax year during which the initial Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years after the year of the Effective Date. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2026, subject to adjustment as provided herein.

**"Contract Minimum Investment Requirement"** means a taxable investment in real and personal property at the Project of not less than \$2,000,000,000.

**"Contract Minimum Jobs Requirement"** means not less than 4,000 full-time, jobs created by the Sponsor in the County in connection with the Project.

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

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

**"Credit Term"** means the years during the Fee Term in which the Infrastructure Credit is applicable, as described in Exhibit D.

**"Department"** means the South Carolina Department of Revenue.

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

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

**"Effective Date"** means, initially, [Approval Date], 2023; provided, however, this date may be adjusted to no later than December 31, 2026, upon written request by the Company delivered to the County Administrator and the Economic Development Director (or equivalent) and, upon such request, the Parties hereby agree that this Agreement shall be deemed amended in all respects necessary to recognize the adjustment, including, as necessary, a reset of the fixed millage rate provided in Section 4.01(a)(iii).

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

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

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

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

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

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

**“Final Termination Date”** means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Investment Period is 13 years, unless extended as provided herein and that the Commencement Date is December 31, 2026, the Phase Termination Date for the Final Phase is December 31, 2079, the Final Termination Date is expected to be January 15, 2081, which is the due date of the last FILOT Payment with respect to the Final Phase.

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

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

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

**“Investment Period”** means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending thirteen years after the Commencement Date; provided that should the Sponsor invest \$500,000,000 and create 1,000 new full-time jobs within the eight year initial investment period for an enhanced development as set forth in Section 12-44-30(13) of the Act, the Investment Period shall be extended to fifteen years pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2039.

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

**“Multicounty Park”** means a multicounty industrial or business park to be created by the County in accordance with the MCIP Act and the terms hereof.

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

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

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

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

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

“**Qualifying Assignee**” means any validly existing domestic entity that shares majority common ownership with the Sponsor.

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

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

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

“**Sponsor**” means [Scout Motors, Inc., a Delaware 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 Sponsor under this Fee Agreement.

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

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

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

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

**ARTICLE II**  
**REPRESENTATIONS AND WARRANTIES**

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

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

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

(c) The County identified the Project, as a "project" by adopting an Inducement Resolution, as defined in the Act on [Approval Date], 2023.

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

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

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

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

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

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

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

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

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

### **ARTICLE III THE PROJECT**

**Section 3.1. *The Project.*** The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service prior to the Commencement Date. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met within the Investment Period, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

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

#### **Section 3.3. *Filings and Reports.***

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

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

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

### **ARTICLE IV FILOT PAYMENTS**

#### **Section 4.1. *FILOT Payments.***

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

(i) The fair market value of the Phase calculated as set forth in the Act (initially, for the Real Property and Improvements portion of the Phase, the fair market value shall be the original cost basis multiplied by

(ii) An initial assessment ratio of five percent (5%), subject to reduction to four percent (4%) as described in Exhibit D, multiplied by

(iii) A fixed millage rate equal to 0.5803, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2022, which rate may be subject to modification if the Effective Date is adjusted.

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

In the event that the Project fails to achieve the Act Minimum Investment within the applicable Investment Period as set forth in the Act, this Agreement shall be deemed immediately modified to provide for FILOT Payments calculated using a minimum assessment ratio of six percent (6%) so long as the Company has made the minimum investment to qualify for such assessment ratio under applicable law, in accordance with Section 12-44-100 of the Act. In addition, the Sponsor shall pay to the County an additional fee equal to the difference between the total amount of FILOT Payments that would have been made if the Project was calculated using a minimum assessment ratio of six percent (6%) and the total amount of FILOT Payments remitted to date.

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

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

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

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

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

**Section 4.4. Damage or Destruction of Economic Development Property.**

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

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

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

**Section 4.5. Condemnation.**

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

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

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

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

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

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

## ARTICLE V ADDITIONAL INCENTIVES

**Section 5.1. Infrastructure Credits.** To assist in paying for costs of Infrastructure, the Sponsor is entitled to the Infrastructure Credits as described in Exhibit D. In no event may the Sponsor's aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

**Section 5.2. Other Incentives.** The County will lease the Real Property to the Sponsor for a nominal fee for a period as set forth in the Manufacturing Site Ground Lease Agreement entered into between the County and [Sponsor] with respect to the Real Property.

## ARTICLE VI CLAW BACK

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

## ARTICLE VII DEFAULT

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

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



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

(c) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means, subject to an event of force majeure set forth in Section 10.9 hereof, a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

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

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

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

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

### **Section 7.2. Remedies on Default.**

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

(i) terminate this Fee Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; or

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

**Section 7.3. Reimbursement of Legal Fees and Other Expenses.** On the occurrence of an Event of Default, if a party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Fee Agreement or for the enforcement of performance or observance of any

obligation or agreement, the prevailing party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

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

## **ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS**

**Section 8.1. Right to Inspect.** The County and its authorized agents, at any reasonable time on 7 days' prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

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

### **Section 8.3. Indemnification Covenants.**

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

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

(c) The County may request the Sponsor to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor's expense. The Sponsor is entitled to use counsel of its choice, manage

and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party.

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

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

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

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

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

**Section 8.6. Assignment.** The Sponsor may assign this Fee Agreement and delegate its obligations hereunder in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold, condition or delay; provided, that the County hereby consents to any assignment of this Fee Agreement and delegation of the Sponsor's obligations hereunder to a Qualifying Assignee. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

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

**Section 8.8. Administration Expenses.** The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$35,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

## **ARTICLE IX SPONSOR AFFILIATES**

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

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

## **ARTICLE X MISCELLANEOUS**

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

**IF TO THE SPONSOR:**

Scout Motors Inc.  
1775 Tysons Blvd.  
6<sup>th</sup> Floor  
McLean, Virginia 22102

Attention: CEO  
Email: [scott.keogh@scoutmotors.com](mailto:scott.keogh@scoutmotors.com)

**WITH A COPY TO (does not constitute notice):**

Scout Motors Inc.  
1775 Tysons Blvd.  
6th Floor  
McLean, Virginia 22102  
Attention: General Counsel  
Email: [neil.sitron@scoutmotors.com](mailto:neil.sitron@scoutmotors.com)

**WITH A COPY TO (does not constitute notice):**

Bradley Arant Boult Cummings LLP  
1819 Fifth Avenue North  
Birmingham, Alabama 35203  
Telephone: 205-521-8899  
Attention: Alex B. Leath  
E-mail: [aleath@bradley.com](mailto:aleath@bradley.com)

**IF TO THE COUNTY:**

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

**WITH A COPY TO (does not constitute notice):**

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

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

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

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

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

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

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

**Section 10.8. Interpretation; Invalidity; Change in Laws.**

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

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

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

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

**Section 10.10. Termination; Termination by Sponsor.**

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

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

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

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

the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

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

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

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

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

*[Signature pages follow]*

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

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
County Council Chair  
Richland County, South Carolina

**ATTEST:**

By: \_\_\_\_\_  
Clerk to County Council  
Richland County, South Carolina

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



**[SCOUT MOTORS INC.]**

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

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

**EXHIBIT A**  
**PROPERTY DESCRIPTION**  
**[SEE ATTACHED]**



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

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement, effective [ ], 2023 (“Fee Agreement”), between Richland County, South Carolina (“County”) and [Scout Motors, Inc.] (“Sponsor”).

**1. Joinder to Fee Agreement.**

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

**2. Capitalized Terms.**

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

**3. Representations of the Sponsor Affiliate.**

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

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

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

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

**4. Governing Law.**

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

**5. Notice.**

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

[\_\_\_\_\_]

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity

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

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

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

**RICHLAND COUNTY, SOUTH CAROLINA**

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA

  
\_\_\_\_\_  
Chair, Richland County Council

(SEAL)  
ATTEST:

  
\_\_\_\_\_  
Clerk to County Council



**EXHIBIT D (see Section 5.1)**  
**DESCRIPTION OF INFRASTRUCTURE CREDIT**

**I. Method of Calculation**

The Credit Term shall commence when the first (1<sup>st</sup>) FILOT Payment is made pursuant to the terms of the Fee Agreement and shall end after the fiftieth (50<sup>th</sup>) FILOT Payment is made pursuant to the terms of the Fee Agreement. The Company shall be entitled to Infrastructure Credits during the Credit Term against its FILOT Payments as follows:

(a) Commencing with the first (1<sup>st</sup>) FILOT Payment and ending upon termination of the Reimbursement Period:

Following receipt of the annual FILOT Payment the County shall remit back to the Sponsor an aggregate Infrastructure Credit payment in the amount of:

- (i) the annual PDA Reimbursable Amount; plus
- (ii) the annual Community Support Reimbursable Amount; and
- (iii) the annual State Grant Reimbursable Amount.

At the direction of the Sponsor and in accordance with the Collateral Assignment of Payments, the portion of each annual Infrastructure Credit payment attributable to the State Grant Reimbursable Amount may be payable directly to the assignee identified in the Collateral Assignment of Payments.

(b) Commencing with the first FILOT Payment due following the termination of the Reimbursement Period and ending on termination of the Final Termination Date, the assessment ratio as set forth in Section 4.1(a) applicable to Project shall immediately be reduced to (4%) and the Sponsor shall receive Infrastructure Credits as follows:

- (i) for the remaining duration of the Credit Term, a 50% reduction of each FILOT Payment. For each property tax year in which the foregoing Infrastructure Credit is applicable, the County shall prepare and issue the annual bill with respect to the Project net of the 50% credit (“Net FILOT Payment”); and
- (ii) following receipt of the annual Net FILOT Payment, the County shall remit back to the Sponsor a payment equal to the annual Community Support Reimbursable Amount.

The Infrastructure Credit in (i) above is subject to adjustment as described in Exhibit E to the Fee Agreement.

## II. Certifications

### A. Annual Certifications

For the duration of the Reimbursement Period, on or before the Certification Date, the [County Economic Development Office]<sup>1</sup> shall certify to the Company the following amounts based on the FILOT Payment certified for the Project received from the Department:

1. County FILOT Payment
2. Remainder FILOT Payment
3. PDA Reimbursable Amount (if any)
4. Community Support Reimbursable Amount
5. Emergency Support Expense
6. County Land Expense (if any)
7. State Grant Reimbursable Amount and State Grant Remaining Balance

### B. Termination of Reimbursement Period

If the Reimbursement Period has not otherwise terminated, on or before the Certification Date occurring in the year in which the State Grant Remaining Balance becomes zero (\$0), the County shall certify to the Company and the State the termination of the Reimbursement Period.

## III. Definitions

The terms used in this Exhibit D that are not otherwise defined herein shall have the following meanings:

**“County Land Expense”** means an annual amount equal to the lesser of (i) 6% of the Remainder FILOT Payment and (ii) \$2,000,000. The annual County Land Expense shall be calculated and included as a part of the annual State Grant Reimbursable Amount calculation until the aggregate annual County Land Expense equals \$33,160,000 as certified by the County.

**“Collateral Assignment of Payments”** shall mean that certain Collateral Assignments of Payments dated as of [ ], 2023 between the Company and the [South Carolina Department of Commerce] [South Carolina County Council for Economic Development].

**“Certification Date”** means September 1 of each year, commencing September 1, 202[5].

**“Community Support Reimbursable Amount”** means an Infrastructure Credit to reimburse the Sponsor for the costs of the childcare facilities constructed by the Sponsor and located in the Multicounty Park. The annual Community Support Reimbursable Amount is equal to the lesser of (i) 5% of the FILOT Payment or (ii) \$800,000. The Community Support Reimbursable Amount shall be reimbursed to the Sponsor commencing with the first FILOT Payment due after the County receives a certification from the Sponsor of the completion of the childcare facilities and ending with the last FILOT Payment due under this Fee Agreement.

**“County FILOT Payment”** means the amount equal to the FILOT Payment less 50% of the fee-in-lieu of *ad valorem* taxes that would have been payable by the Company if the assessment rate were 4%.

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<sup>1</sup> Or such other entity to which the County may delegate the functions of the County’s Economic Development Office.

**“Emergency Support Expense”** means an annual amount equal to \$500,000. The Emergency Support Expense shall be included as a part of the annual State Grant Reimbursable Amount calculation for each of the first ten FILOT Payments.

**“PDA Reimbursable Amount”** means an Infrastructure Credit to reimburse the Sponsor for amounts expended by the Sponsor for all administrative, licenses and permitting fees or charges in connection with the Project (collectively, “Project Assessment”) through the Start of Production, as defined in the Project Development Agreement. The aggregate PDA Reimbursable Amount shall not exceed \$10,000,000. The annual PDA Reimbursable Amount shall not exceed the lesser of (i) 12.5% of the Remainder FILOT Payment or (ii) \$3,000,000. The PDA Reimbursable Amount shall be reimbursed to the Sponsor commencing in the year in which the County receives a written certification from the Sponsor of the Project Assessment paid.

**“Reimbursement Period”** means the period commencing with the date of first (1<sup>st</sup>) FILOT Payment made pursuant to the terms of the Fee Agreement and ending on the earlier of date of the twentieth (20<sup>th</sup>) FILOT Payment or the date the County certifies to the Company and the State that the State Grant Remaining Balance is zero (\$0).

**“Remainder FILOT Payment”** means the annual FILOT Payment remaining after subtracting the annual County FILOT Payment.

**“State Grant”** means the \$200,000,000 advanced by the South Carolina Department of Commerce or the South Carolina Coordinating Council for Economic Development for payment of the Soil Stabilization Work, as defined in the Project Development Agreement, plus interest from the date of [ ] at the rate of five percent (5%) per annum.

**“State Grant Reimbursable Amount”** means the annual Infrastructure Credit payment equal to the amount that remains from the FILOT Payment after subtracting the annual PDA Reimbursable Amount, the annual Community Support Reimbursable Amount, the annual Emergency Support Expense and the annual County Land Expense from the Remainder FILOT Payment.

**“State Grant Remaining Balance”** means the remaining balance of the State Grant to be reimbursed after application of all prior payments of the State Grant Reimbursable Amount.

**EXHIBIT E (see Section 6.1)**  
**DESCRIPTION OF CLAW BACK**

If the Sponsor fails to achieve the Contract Minimum Investment Requirement or the Contract Minimum Jobs Requirement by the end of Investment Period, then any Infrastructure Credits for which the Sponsor is eligible as described in paragraph (b) of Exhibit D shall be reduced, subject to the Cure Rights described below, on a go-forward basis by the Claw Back Percentage calculated below.

**Claw Back Percentage = 100% - Overall Achievement Percentage**

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

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

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

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

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

With respect to any prospective reduction of the Infrastructure Credit that may result from the application of the Claw Back described in this Exhibit E, the Sponsor shall have the right to cure as provided below (“**Cure Rights**”). If any time prior to December 31 of the year that ends five years after the end of the Investment Period, the Sponsor may provide to the County its written certification, with reasonable support as may be requested by the County in its sole discretion, that it has achieved both the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement (“**Achievement Certification**”). Upon the County’s receipt and written concurrence, which shall not be unreasonably withheld, with the Achievement Certification, then the prospective reduction of the Infrastructure Credit shall cease and the Sponsor shall be entitled to claim the full Infrastructure Credit for the remainder of the term of the Fee Agreement beginning with the FILOT Payment coming due in the year after the year in which the Achievement Certification is delivered.

**EXHIBIT B**

**PROPERTY DESCRIPTION**

**GROUP A:**

Parcel One:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 1, TRACT 1 (containing 178.03 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc., No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3940-3941](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15006-01-01 – For informational purposes only)*

AND ALSO

Parcel Two:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 1, TRACT 2 (containing 90.50 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3932](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15004-01-01 – For informational purposes only)*

AND ALSO

Parcel Three:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 1, TRACT 3 (containing 2 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3934](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15004-01-02 – For informational purposes only)*

**GROUP B:**

Parcel One:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 2, TRACT 1 (containing 41.49 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3924](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # 15007-01-01 – For informational purposes only)*

AND ALSO

Parcel Two:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 2, TRACT 2 (containing 102.29 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc., No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3928](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15106-01-01 – For informational purposes only)*

AND ALSO

Parcel Three:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 2, TRACT 3 (containing 4.48 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2442 at Page 38](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # 15000-01-01 – For informational purposes only)*

AND ALSO

Parcel Four:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 2, TRACT 4 (containing 17.03 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc., No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3929](#). Reference to said Plat is hereby made for a more complete and accuratemetes and bounds description thereof.

*(TMS # R15100-03-03 – For informational purposes only)*

AND ALSO

Parcel Five:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 2, TRACT 5 (containing 9.64 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3935](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15100-03-02 – For informational purposes only)*

## **GROUP C:**

Parcel One:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 3, TRACT 1 (containing 107.94 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc., No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3930-3931](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15005-01-01 – For informational purposes only)*

AND ALSO

Parcel Two:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 3, TRACT 2 (containing 97.51 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3925-3926](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15008-01-01 – For informational purposes only)*

AND ALSO

Parcel Three:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 3, TRACT 3 (containing 14.66 acres more or less), on that certain plat entitled "ALTA / NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3923](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15101-01-01 – For informational purposes only)*

AND ALSO

Parcel Four:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 3, TRACT 4 (containing 3.2 acres more or less), on that certain plat entitled "ALTA / NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2442 at Page 37](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15101-01-02 – For informational purposes only)*

## **GROUP D:**

Tract 1A:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 4, TRACT 1A (containing 80.70 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3942](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15100-01-07 – for informational purposes only)*

AND ALSO

Tract 1B:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 4, TRACT 1B (containing 115.47 acres more or less), on that certain plat entitled "ALTA/

NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc., No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3839](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(PIO TMS # R15100-01-06 – for informational purposes only)*

AND ALSO

Tract 2:

ALL that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 4, TRACT 2 (containing 18.84 acres more or less), on that certain plat entitled "ALTA/ NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc. , No. C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3937](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15100-03-01 – For Informational purposes only)*

## **GROUP E:**

All that certain piece, parcel or tract of land, with any improvements thereon, situate, lying and being located in Blythewood, County of Richland and State of South Carolina, containing 11.79 acres, more or less, as shown upon an individual survey thereof made for Sharpe Properties, LLC by Daniel Riddick & Associates, Inc., dated May 18, 2009, recorded [Book 1551 at Page 3498](#) of the Office of the ROD for Richland County, South Carolina. According to said plat, subject property is bounded and measures as follows: Beginning at a 1" rebar on the southernmost corner of subject property and running N41°20'53"W along property now or formerly of Barbara Swygert Lux a distance of 699.46 feet to a 1" pinched; thence running N41°18'35"W along property now or-formerly of Barbara Swygert Lux a distance of 369.07 feet to a 1" pinched; thence turning and running N26°05'08"E along Locklier Road, a county maintained unpaved road, 842.65 feet to a #6 rebar; thence turning and running N84°43'11"E along Blythewood Road (S-40-59), a 75-foot right-of-way, a distance of 127.56 feet to a concrete right-of-way monument; thence turning and running S05°14'55"E along Community Road (1-77 Frontage Road) a distance of 910.19 feet to a concrete right-of-way monument and 1" rebar; thence curving and running along Community Road (1-77 Frontage Road) a chord distance of 562.37 feet to a 1" rebar; thence running S38°29'07"E along Community Road (1-77 Frontage Road) a distance of 51.91 feet to a 1" rebar; thence turning and running S48°54'58"W along property now or formerly of Fairfield Electric Company, Inc., a distance of 155.25 feet to a 1" rebar, being the point and place of beginning.

*(TMS # R15100-03-05 – For informational purposes only)*

## **GROUP F:**

Tract II:

All that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 7 (containing 62.02 acres more or less), on that certain plat entitled "ALTA / NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc., No C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2441 at Page 3927](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.

*(TMS # R15100-03-04 – For informational purposes only)*

## **GROUP G:**

All that certain piece, parcel or tract of land, with any improvements located thereon, situate, lying and being designated as PARCEL 8 (containing 237.43 acres more or less), on that certain plat entitled "ALTA / NSPS SURVEY PREPARED FOR RICHLAND COUNTY", by Gregory Jenness, No. 17928 with American Engineering Consultants, Inc., No C00556, dated September 2019 and recorded in the Richland County ROD Office on October 31, 2019 in [Book 2442 at Page 36](#). Reference to said Plat is hereby made for a more complete and accurate metes and bounds description thereof.



*(TMS # R12500-02-06 – For informational purposes only)*

**GROUP H:**

That tract of land in Richland County, South Carolina, being shown and designated as “City of Columbia Parcel 2” containing 294.788 acres on ALTA/ACSM Land Title Survey, Project – Arum Composites, LLC prepared by B.P. Barber and Associates, Inc. dated May 9, 2007, revised September 25, 2007, recorded in the Office of the Register of Deeds for Richland County in [Book 1361 at Page 807](#), together with any gores or strips, if any, between the common boundaries of Parcel 1 and Parcel 2.

AND ALSO

That tract of land in Richland County, South Carolina, being shown and designated as “Firetower I-77 partners Parcel 1” containing 171.180 acres on ALTA/ACSM Land Title Survey, Project – Arum Composites, LLC prepared by B.P. Barber and Associates, Inc. dated May 9, 2007, revised September 25, 2007, recorded in the Office of the Register of Deeds for Richland County in [Book 1361 at Page 807](#), together with any gores or strips, if any, between the common boundaries of Parcel 1 and Parcel 2.

*(TMS # R15000-02-27 – For informational purposes only)*

**GROUP I:**

All that certain piece, parcel or tract of land situated two miles south of the City of Blythewood, County of Richland, State of South Carolina, being shown and designated as Tract A, Tract B and Tract C, containing a total of 290.8 acres, more or less, on that survey entitled “Land Title Survey for Cliff Theisen” prepared by Ronald D. Platner, P.L.S, dated July 19, 2022 and recorded August 10, 2022 in Plat Book 2769 at Page 2959 in the Register of Deeds Office for Richland County, South Carolina. Reference to said plat for a more complete metes and bounds description therein.

*(TMS# R12500-03-01 – For informational purposes only)*

**EXHIBIT C**

**FORM OF INTERGOVERNMENTAL AGREEMENT**

STATE OF SOUTH CAROLINA ) INTERGOVERNMENTAL  
 ) AGREEMENT  
 COUNTY OF RICHLAND ) (PROJECT CONNECT  
 ) PERMITTING)  
 TOWN OF BLYTHEWOOD )

**THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”)** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between Richland County, South Carolina (“**County**”) and the Town of Blythewood, South Carolina (“**Town**” and together with the County, the “**Parties**”).

**RECITALS**

WHEREAS, a company currently known to the County and the Town as Project Connect will locate a significant manufacturing facility in the County and the Town (“**Project**”); and

WHEREAS, Article VIII, Section 13 of the South Carolina Constitution authorizes counties and municipalities to provide by agreement for the joint administration of any function, the exercise of powers, and the sharing of the costs thereof; and

WHEREAS, Title 6, Chapter 29, Code of Laws of South Carolina 1976, as amended (“**Act**”) allows counties and municipalities to agree to the exercise of extraterritorial jurisdiction with respect to the power to regulate land use under the Act provided any such agreement complies with Section 6-29-330 of the South Carolina Code of Laws and is approved by ordinances duly enacted by the governing bodies of both political subdivisions; and

WHEREAS, the majority of the property comprising the Project is located within the corporate limits of the Town, but a portion lies within the adjacent unincorporated area of the County; and

WHEREAS, the Parties anticipate that a degree of efficiency will be achieved if the Parties agree to share the responsibility for the review and issuance of certain Project-related land use and development approvals between themselves; and

WHEREAS, these efficiencies are further anticipated to assist in expediting approvals for the Project in order to accelerate the timeline for completion of the Project and the creation of the jobs associated with same—all to the benefit of the Town and the County, as well as their respective residents, businesses, and tax bases; and

WHEREAS, the Parties desire to delineate the responsibilities for certain permitting and review authority in relation to the Project as permitted by the Act by entering into this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, including the promises and covenants contained herein, the receipt and sufficiency of which is acknowledged by the Parties, it is hereby agreed between the Town and the County that, regardless of the situs of the Property comprising the Project, they will delegate responsibility for certain Project-related land use and development approvals and permitting among themselves as follows:

1. The Town will be responsible for (i) the review and approval of all permits relating to the vertical construction of any building or structure comprising the Project, including all required inspections associated with same (ii) the zoning process for any portion of the Project located within the territorial boundaries of the Town, (iii) all site plan reviews and approvals for the Project, including the approval of any needed variances from adopted site standards, but excluding stormwater approvals as addressed below and (iv) the issuance of any certificates of occupancy with respect to any building or structure comprising the Project ((i) through (iv) are “**Town Responsibilities**”).

2. With respect to the Town Responsibilities, the applicable Town ordinances, including the then-current version of all applicable building and fire codes, and any other adopted regulations will govern the administration of the Town Responsibilities.

3. The County will cooperate with the Town as the Town undertakes the Town Responsibilities. The County may assist the Town as required, but the Parties acknowledge the Town will bear sole responsibility for the Town Responsibilities.

4. The County shall not have any representation on any boards or commissions of the Town that may have review or approval authority with respect to the Town Responsibilities under the Act or the Town’s ordinances.

5. The County will be responsible for (i) the review and approval of all land disturbance permits relating to the Project, (ii) stormwater related permitting for the portions of the Project located outside the territorial boundaries of the Town, it being understood by the Parties that the South Carolina Department of Health and Environmental Control (“**DHEC**”) will be responsible for the stormwater-related permitting for those portions of the Project located within the territorial boundaries of the Town, and (iii) the zoning process for any portion of the Project located within unincorporated territory of the County ((i) through (iii) are “**County Responsibilities**”).

6. With respect to the County Responsibilities, the applicable County ordinances and regulations will govern the administration of the County Responsibilities.

7. It is understood that if at any time during the enforcement of this Agreement the Town enters into a written agreement with DHEC regarding the delegation of stormwater regulatory authority, the Town may enter into an agreement with the County to assume its stormwater and land disturbance permitting duties.

8. The Town will cooperate with the County as the County undertakes the County Responsibilities. The Town may assist the County as required, but the Parties acknowledge the County will bear sole responsibility for the County Responsibilities.

9. The Town shall have no representation on any boards or commissions of the County responsible for the County Responsibilities under the Act or the County’s ordinances.

10. The scope of this Agreement is solely for the Project. All powers under the Act not otherwise expressly delineated between the Parties as set forth above shall be retained by the Town and the County within their respective territorial boundaries.

11. All fees associated with the various approvals and permits contemplated under this Agreement shall be set by and retained by the Party with responsibility for the activity that generates the fee.

12. Each Party shall maintain such insurance coverage for general liability, workers' compensation, and other such coverage as may be deemed advisable by the Parties, but in no event less than that required by law.

13. The Parties shall be solely responsible for the acts and omissions of their respective employees, officers, and officials, and for any claims, lawsuits and payments of damages that arise out of, or are related in any manner to, their respective responsibilities under the Agreement. No right of indemnification is created by this Agreement and the Parties expressly disclaim such. Nor shall any provision of this Agreement be deemed to give rise to or vest any rights or obligations in favor of any third party person or entity.

14. This Agreement shall be effective once executed by the Parties and shall continue until all Town Responsibilities and County Responsibilities are completed for the Project unless sooner terminated by mutual written agreement of the Parties

15. Miscellaneous Provisions:

a. This Agreement constitutes the complete understanding between the Parties hereto with respect to the matters addressed herein and supersedes all prior understandings and writings, and this Agreement may be amended or modified only by a writing signed by the Parties.

b. If any part of this Agreement, for any reason, is declared invalid or void, such declaration shall not affect the remaining portions of the Agreement which shall remain in full force and effect as if this Agreement had been executed with the invalid portion eliminated. However, if any material provision which has been declared invalid or unenforceable shall be a provision that would prevent the continued and complete performance of this Agreement by the parties, then they hereby agree that they will renegotiate that material term or provision in order to otherwise render the Agreement valid and enforceable. If either Party decides not to enforce a provision of this Agreement, such decision in favor of non-enforcement shall not constitute a complete and full waiver of the right of that Party in the future to enforce that provision of the Agreement in the event of any subsequent breach or failure to comply in full with that provision of the Agreement.

c. This Agreement and the rights of the Parties hereunder shall be interpreted in accordance with the laws of the State of South Carolina.

d. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single document.

e. The Parties hereby acknowledge that they have reviewed this Agreement and have been afforded an opportunity to consult with an attorney. The Parties concur that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of any provision of this Agreement.

f. The terms of this Agreement are contractual and not a mere recital, and all signatory Parties hereto represent and warrant that they have the full and complete authority to execute and enter into this Agreement.

IN WITNESS WHEREOF, the Parties hereto execute this Agreement on the date first above written,

WITNESSES:

COUNTY OF RICHLAND

\_\_\_\_\_  
\_\_\_\_\_

BY: \_\_\_\_\_

WITNESSES:

TOWN OF BLYTHEWOOD

\_\_\_\_\_  
\_\_\_\_\_

BY: \_\_\_\_\_

## Richland County Council Request for Action

**Subject:**

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and CIBRA Solutions, LLC, a company previously identified as Project Viper, to provide for payment of a fee-in-lieu of taxes; and other related matters

**Notes:**

First Reading: January 3, 2023

Second Reading: February 7, 2023

Third Reading: March 21, 2023 {Tentative}

Public Hearing: March 21, 2023

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND CIRBA SOLUTIONS, LLC, A COMPANY PREVIOUSLY IDENTIFIED AS PROJECT VIPER TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AND OTHER RELATED MATTERS.**

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

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

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

WHEREAS, Cirba Solutions, LLC, together with or by and through a to-be-formed affiliate or subsidiary (collectively, “Sponsor”), desires to establish a battery materials manufacturing facility in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$323,000,000.00 and the creation of 310 new, full-time jobs, all within five (5) years of the commencement of operations; and

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

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

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



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

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

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

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

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

**Section 4. *Grant Acceptance and Administration.*** To the extent the County receives any third party grant funds related to the Project, the County is authorized to accept and administer those funds for the Project’s benefit according to any documents governing the receipt and expenditure of the grant funds

**Section 5. *Further Assurances.*** The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or the Director of Economic Development, as appropriate, to take whatever further action and for the Chair, the County Administrator, and the Director of Economic Development to negotiate, execute and deliver whatever further documents, and for the Clerk to County Council to attest the same, as may be appropriate to effect this Ordinance and the incentives offered to the Sponsor under this Ordinance and the Fee Agreement.

**Section 6. *Savings Clause.*** The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

**Section 7. *General Repealer.*** Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 8. *Effectiveness.*** This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: January 3, 2023  
Second Reading: February 7, 2023  
Public Hearing: March 21, 2023  
Third Reading: March 21, 2023

**EXHIBIT A**  
**FORM OF FEE AGREEMENT**

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

**BETWEEN**

**[CIRBA SOLUTIONS, LLC]**

**AND**

**RICHLAND COUNTY, SOUTH CAROLINA**

**EFFECTIVE AS OF []**

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**SUMMARY OF CONTENTS OF  
FEE AGREEMENT**

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

<b>PROVISION</b>	<b>BRIEF DESCRIPTION</b>	<b>SECTION REFERENCE</b>
<b>Sponsor Name</b>	[Cirba Solutions, LLC]	
<b>Project Location</b>	Pineview Industrial Park	
<b>Tax Map No.</b>		
<b>FILOT</b>		
• Phase Exemption Period	40 years	Article I; Definitions
• Contract Minimum Investment Requirement	\$323,000,000	Article I; Definitions
• Contract Minimum Jobs Requirement	310 new full time jobs	Article I; Definitions
• Investment Period	10 years	Article I; Definitions
• Assessment Ratio	4%	§4.1(a)(ii)
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## FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT

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

### WITNESSETH:

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

(b) The Sponsor has committed to establish a battery materials manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$323,000,000.00 and the creation of 310 new, full-time jobs;

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

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

### ARTICLE I DEFINITIONS

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

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

“*Act Minimum Investment Requirement*” means an investment of at least \$150,000,000 in the Project within five years of the Commencement Date.

“*Act Minimum Jobs Requirement*” means an not less than 125 full-time, jobs created by the Sponsor in the County in connection with the Project.

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

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



“**Commencement Date**” means the last day of the property tax year during which the initial Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be [December 31, 2024].

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$323,000,000.00.

“**Contract Minimum Jobs Requirement**” means not less than 310 full-time, jobs created by the Sponsor in the County in connection with the Project.

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

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

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

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

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

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

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

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

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

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

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

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is [December 31, 2071],

the Final Termination Date is expected to be [January 15, 2073], which is the due date of the last FILOT Payment with respect to the Final Phase.

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

**“Investment Period”** means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending ten years after the Commencement Date, or as may be further extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on [December 31, 2032].

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

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

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

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

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

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

**“Real Property”** means real property that the Sponsor uses or will use in the County for the purposes that Section 2.2(b) describes, and initially consists of the [206 acres] of land identified on Exhibit A of this Fee Agreement.

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

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

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

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

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

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

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

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

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

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

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

(c) The County identified the Project, as a “project” on [January 3, 2023] by adopting an Inducement Resolution, as defined in the Act on [January 3, 2023].

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

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

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

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

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

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

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

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

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

### **ARTICLE III THE PROJECT**

**Section 3.1. *The Project.*** The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2024. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

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

#### **Section 3.3. *Filings and Reports.***

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing in January 31, [2025], the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

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

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

## **ARTICLE IV FILOT PAYMENTS**

### **Section 4.1. FILOT Payments.**

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property and Improvements portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by
- (ii) An assessment ratio of four percent (4%), multiplied by
- (iii) A fixed millage rate equal to [475.3], which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2022.

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

In the event that the Project fails to achieve the Act Minimum Investment Requirement and the Act Minimum Jobs Requirement within the applicable Investment Period as set forth in the Act, this Agreement shall be deemed immediately modified to provide for FILOT Payments calculated using a minimum assessment ratio of six percent (6%) so long as the Sponsor has made the minimum investment to qualify for such assessment ratio under applicable law, in accordance with Section 12-44-100 of the Act. In addition, the Sponsor shall pay to the County an additional fee equal to the difference between the total amount of FILOT Payments that would have been made if the Project was calculated using a minimum assessment ratio of six percent (6%) since the Commencement Date and the total amount of FILOT Payments remitted to date.

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

owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7 of this Fee Agreement.

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

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

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

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

**Section 4.4. *Damage or Destruction of Economic Development Property.***

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

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

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

**Section 4.5. *Condemnation.***

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the

judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

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

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

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

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

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

**ARTICLE V  
ADDITIONAL INCENTIVES**

**Section 5.1. Reserved.**

**Section 5.2. Other Incentives.** The County has agreed to sell the Real Property to the Sponsor. The purchase price of the Real Property as set forth in the Purchase Agreement dated as of [ ], 2023, between the County, as seller, and Sponsor, as buyer, is \$675,000, which purchase price is less than the fair market value of the Real Property.

**ARTICLE VI  
RESERVED**

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

**ARTICLE VII  
DEFAULT**

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

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

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

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

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

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

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

(g) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Sponsor to the County specifying such failure and requesting that it be remedied, unless the County has instituted



corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

**Section 7.2. Remedies on Default.**

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

(i) terminate this Fee Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; or

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

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

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

**ARTICLE VIII  
PARTICULAR RIGHTS AND COVENANTS**

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

**Section 8.2. Confidentiality.** The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“**Confidential Information**”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee Agreement as “**Confidential Information.**” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Sponsor acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required

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

**Section 8.3. Indemnification Covenants.**

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

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

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

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

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

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

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

this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

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

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

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

**Section 8.8. *Administration Expenses.*** The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$[12,500]. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

## ARTICLE IX SPONSOR AFFILIATES

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

**Section 9.2. *Primary Responsibility.*** Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any

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

## **ARTICLE X MISCELLANEOUS**

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

**IF TO THE SPONSOR:**

[Cirba Solutions, LLC]  
c/o K&L Gates LLP  
1601 K Street, NW  
Washington, DC 20006

**WITH A COPY TO (does not constitute notice):**

K&L Gates LLP  
Attn: Olivia Byrne  
1601 K Street, NW  
Washington, DC 20006

**IF TO THE COUNTY:**

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

**WITH A COPY TO (does not constitute notice):**

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

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

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

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

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

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

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

**Section 10.8. Interpretation; Invalidity; Change in Laws.**

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

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

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

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

**Section 10.10. Termination; Termination by Sponsor.**

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

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

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

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

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

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

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

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

*[Signature pages follow]*

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

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
County Council Chair  
Richland County, South Carolina

**ATTEST:**

By: \_\_\_\_\_  
Clerk to County Council  
Richland County, South Carolina

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

**[CIRBA SOLUTIONS, LLC]**

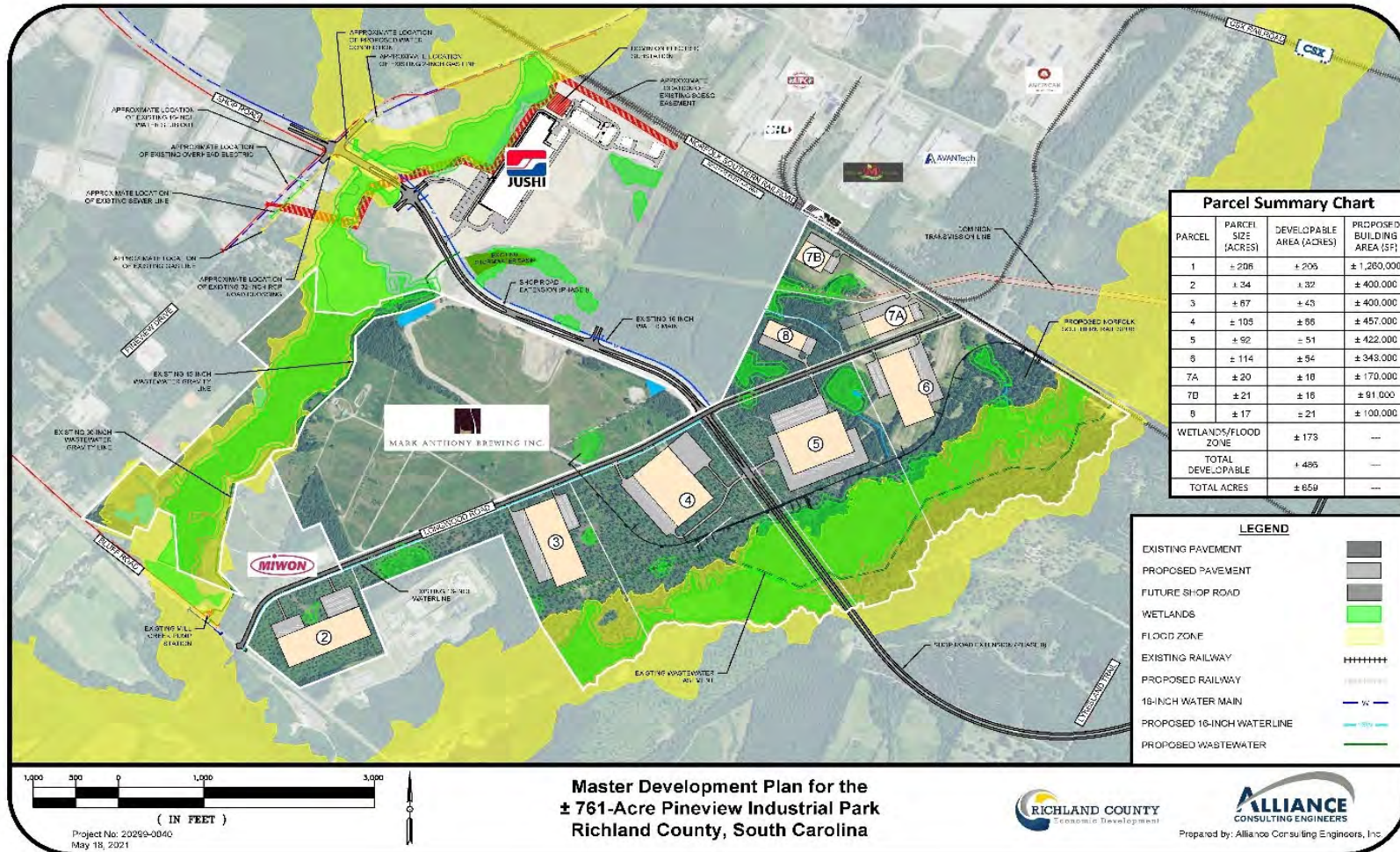
\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

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



## EXHIBIT A PROPERTY DESCRIPTION

**PARCELS 5 AND 6 IDENTIFIED ON THE PLAN BELOW**



PARCEL	PARCEL SIZE (ACRES)	DEVELOPABLE AREA (ACRES)	PROPOSED BUILDING AREA (SF)
1	± 208	± 206	± 1,260,000
2	± 34	± 32	± 400,000
3	± 67	± 43	± 400,000
4	± 105	± 86	± 457,000
5	± 92	± 51	± 422,000
6	± 114	± 94	± 343,000
7A	± 20	± 10	± 170,000
7B	± 21	± 16	± 91,000
8	± 17	± 21	± 100,000
WETLANDS/FLOOD ZONE	± 173	---	---
TOTAL DEVELOPABLE	± 495	---	---
TOTAL ACRES	± 659	---	---

EXISTING PAVEMENT	
PROPOSED PAVEMENT	
FUTURE SHOP ROAD	
WETLANDS	
FLOOD ZONE	
EXISTING RAILWAY	
PROPOSED RAILWAY	
16-INCH WATER MAIN	
PROPOSED 16-INCH WATERLINE	
PROPOSED WASTEWATER	

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

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

**1. Joinder to Fee Agreement.**

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

**2. Capitalized Terms.**

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

**3. Representations of the Sponsor Affiliate.**

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

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

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

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

**4. Governing Law.**

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

**5. Notice.**

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

[\_\_\_\_\_]

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**RICHLAND COUNTY, SOUTH CAROLINA**

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

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

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

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

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

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

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

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

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

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

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

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

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


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

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA

  
\_\_\_\_\_  
Chair, Richland County Council

(SEAL)  
ATTEST:

  
\_\_\_\_\_  
Clerk to County Council

**EXHIBIT D (see Section 6.1)**  
**DESCRIPTION OF CLAW BACK**

If the Sponsor fails to achieve the Contract Minimum Investment Requirement by the end of Investment Period, then the Sponsor shall be required to repay a pro rata portion of the difference between the purchase price of the Real Property (\$675,000) and the fair market value of the Real Property (“**Real Property Incentive Value**”) which the County and Sponsor agree for purposes of the claw back is equal to \$5,150,000, which is \$25,000 multiplied by the total acres of the Real Property. The pro rata portion of the Real Property Incentive Value to be repaid shall be calculated as follows.

**Real Property Incentive Value = Fair Market Value of Real Property – Purchase Price**

**Repayment Amount = Real Property Incentive Value x Claw Back Percentage**

**Claw Back Percentage = 100% - Achievement Percentage**

**Achievement Percentage = Actual Investment Achieved / \$323,000,000**

*For example, and by way of example only, if, as of the end of the Investment Period, the Sponsor has invested \$290,700,000, the Repayment Amount would be calculated as follows:*

*Real Property Incentive Value = \$5,150,000 – \$675,000 = \$4,475,000*

*Achievement Percentage = \$290,700,000/\$323,000,000 =90%*

*Claw Back Percentage = 100% - 90% = 10%*

*Repayment Amount = \$4,475,000 x 10% = \$447,500*

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

## Richland County Council Request for Action

**Subject:**

Authorizing the transfer of certain property owned by Richland County and located in the Pineview Industrial Park; and other matters related hereto

**Notes:**

First Reading: December 13, 2022

Second Reading: January 3, 2023

Third Reading: March 21, 2023 {Tentative}

Public Hearing: March 21, 2023



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE TRANSFER OF CERTAIN REAL PROPERTY OWNED BY  
RICHLAND COUNTY AND LOCATED IN THE PINEVIEW INDUSTRIAL PARK;  
AND OTHER MATTERS RELATED THERETO**

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

WHEREAS, the County owns the real property shown as Parcel 5 (+/- 92 acres) and Parcel 6 (+/- 114 acres) (collectively, “Property”) on that certain Master Development Plan for the Pineview Industrial Park attached hereto as Exhibit A;

WHEREAS, as an incentive for the location of a battery materials manufacturing facility in the County by Cirba Solutions, LLC, a company previously known to the County as Project Viper (“Company”), the County desires to sell all or a portion the Property to the Company; and

WHEREAS, the County desires to enter into a purchase agreement (“Agreement”), the form of which is attached as Exhibit B, to set forth the terms and conditions of the sale of the Property by the County to the Company.

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

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

**Section 2. Approval of Sale of Property.** County Council approves the sale of the Property by the County and authorizes each of the County Council Chair, the County Administrator, and the Director of Economic Development to negotiate (including establishing the purchase price for the Property and the final portion of the Property to be sold to the Company), execute and deliver the Agreement, the final form, terms and provisions of which shall be finally approved by the County Council Chair, the County Administrator or the Director of Economic Development, following receipt of advice from counsel to the County, with the execution of the Agreement by the County Council Chair, the County Administrator or the Director of Economic Development to constitute conclusive evidence of the final approval thereof.

**Section 3. Further Acts.** County Council authorizes each of the County Council Chair, the County Administrator, or the Director of Economic Development, following receipt of advice from counsel to the County, to take such further acts and negotiate, approve and execute whatever further instruments on behalf of the County, including a deed for the Property or other closing affidavits and certificates, as deemed necessary, desirable or appropriate to effect the transactions described in this Ordinance. Any actions taken in the name of the County prior to the effective date of this Ordinance with respect to the sale of the Property are expressly ratified and confirmed.

**Section 4. General Repealer.** Any ordinance, resolution, or other order of County Council, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 5. Effectiveness.** This Ordinance is effective after third reading and a public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

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Chairman of County Council

(SEAL)  
ATTEST:

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Clerk to County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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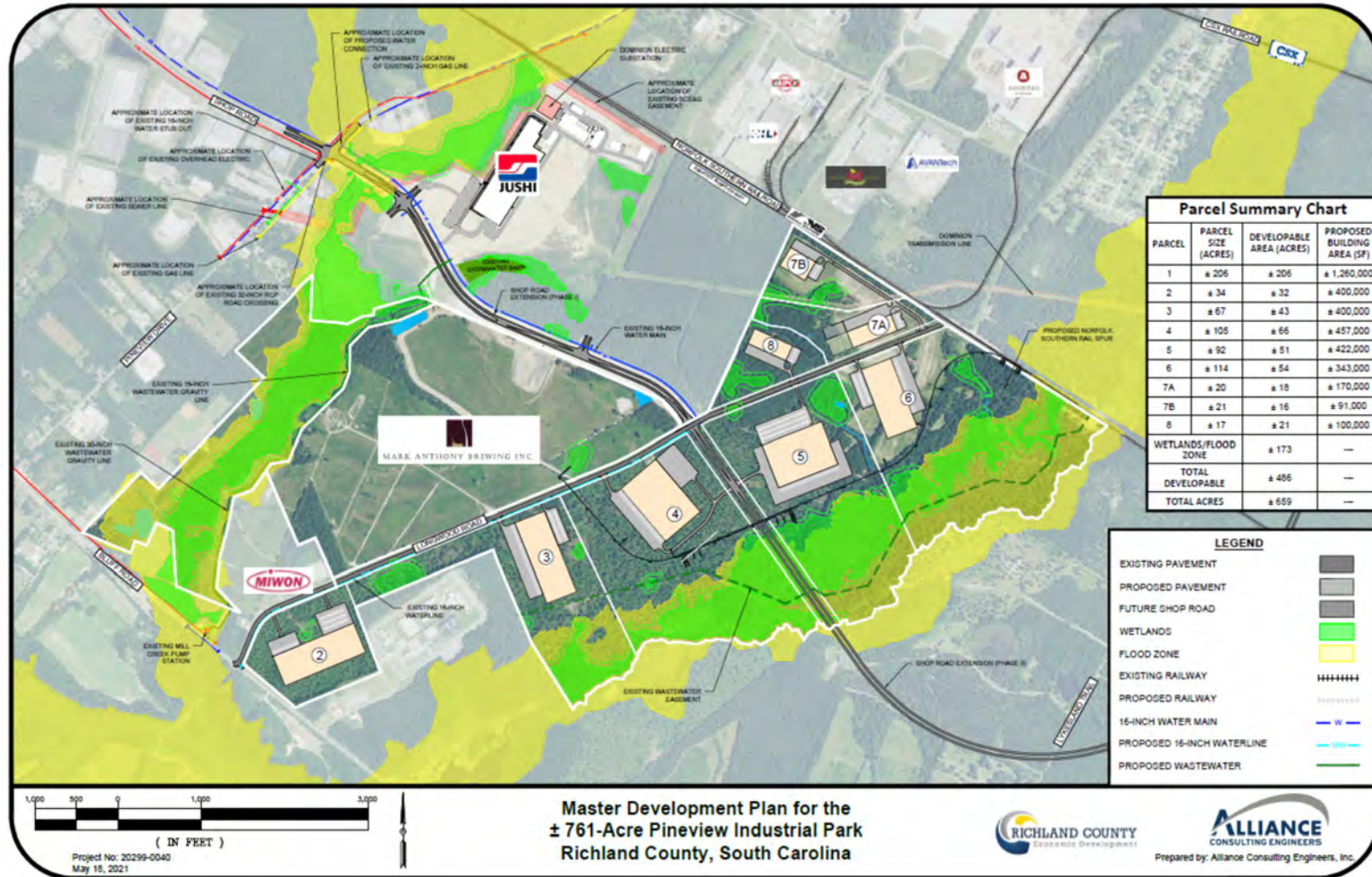
Approved As To LEGAL Form Only  
No Opinion Rendered As To Content

READINGS:

First Reading: December 13, 2022  
Second Reading: January 3, 2023  
Public Hearing: March 21, 2023  
Third Reading: March 21, 2023

## EXHIBIT A

### MASTER DEVELOPMENT PLAN FOR PINEVIEW INDUSTRIAL PARK



**EXHIBIT B**

**FORM OF PURCHASE AGREEMENT**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

**PURCHASE AGREEMENT**

THIS PURCHASE AGREEMENT (the “*Agreement*”) is made and entered into as of the \_\_\_ day of March, 2023 (“*Effective Date*”), by and between **RICHLAND COUNTY, SOUTH CAROLINA**, a political subdivision of the State of South Carolina (“*Seller*”) and **[CIRBA SOLUTIONS, LLC]** (together with its successors and assigns, “*Buyer*”).

**WITNESSETH:**

1. Agreement to Sell and Purchase. For and in consideration of the Earnest Money (as defined below) paid by Buyer to Escrow Agent (as defined below), the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Seller and Buyer, Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase and take from Seller, subject to and in accordance with all of the terms and conditions of this Agreement, the Property (as defined below).

2. Property. The property subject to this Agreement consists of that real property shown as **Parcel 5 (92 acres)** and **Parcel 6 (114 acres)** on that certain Master Development Plan for the + 761-Acre Pineview Industrial Park, Richland County, South Carolina which property is generally depicted on **Exhibit A** attached hereto (the “Real Property”) and together with all rights, easements and appurtenances thereunto belonging (collectively, the “*Property*”).

3. Purchase Price; Method of Payment. The purchase price for the Property, hereinafter called the “**Purchase Price**”, shall be **Six Hundred Seventy-Six Thousand and No/100 Dollars (\$676,000.00)**. The Purchase Price shall be paid by Buyer to Seller as follows:

(a) Earnest money in the sum of Ten Thousand and No/100 Dollars (\$10,000.00) (“*Earnest Money*”) delivered to an escrow agent selected by Buyer (the “*Escrow Agent*”), which shall be deposited by Buyer to Escrow Agent within three (3) business days of the Effective Date.

(b) The remaining balance of the Purchase Price, after crediting the Earnest Money, and subject to the pro-rations and adjustments hereinafter described, shall be paid by Buyer to Escrow Agent on or before the Closing Date, and shall be disbursed by Escrow Agent to Seller by wire delivery of funds to an account designated in writing by Seller.

4. Closing. Provided that Buyer has not terminated this Agreement prior to the end of the Inspection Period, the closing of the purchase and sale of the Property (“*Closing*”) will be held at a location to be determined by the Buyer on any date (“*Closing Date*”) which is on or before that date which is **thirty (30) days** following expiration of the Inspection Period (the “*Closing Deadline*”) or such earlier date, which Buyer may determine at its option sooner. Buyer shall give Seller written notice of the Closing Date at least five (5) days in advance thereof.

5. Conditions Precedent to Closing. Buyer shall not be obligated to close the transactions contemplated by this Agreement unless each of the following conditions shall be satisfied or waived in writing executed by Buyer on or prior to the Closing Date. In the event the conditions are not satisfied by the Closing Deadline, Buyer and Seller may agree to extend the Closing Date for a period not to exceed sixty (60) days (the “*Outside Closing Date*”):

(i) Title Policy. The Title Company shall be irrevocably committed in writing to issue an title insurance policy containing the reasonable endorsements requested by Buyer, subject only to the Permitted Exceptions.

(ii) Accuracy of Representations. Each of the representations and warranties made by Seller in this Agreement shall be true and correct in all material respects as of the Closing Date.

(iii) Delivery of Documents. Seller shall have delivered to Escrow Agent all of the items required to be delivered pursuant to the terms of Section [11].

(iv) No Default. Seller shall have performed in all material respects its obligations under this Agreement.

(v) Rezoning. The Seller shall have caused completed the Rezoning (as defined herein).

(vi) Grants and Incentives. Buyer shall have received such incentives as Buyer desires in its sole and absolute discretion from the State of South Carolina, Richland County and the Federal Government, as well as a grant in the amount of \$3,000,000.00 from the State of South Carolina.

(vii) Subdivision. The Seller shall have obtained Subdivision Approval of the Subdivision Plat.

(viii) Shop Road Extension. Richland County shall have delivered such assurances desired by Buyer of its commitment to construction the extension of Shop Road as a public right of way to provide access to the Property.

(ix) Rail Spur. Buyer shall have received the binding commitment of Norfolk Southern to permit a rail spur on the Property which connects to the Norfolk Southern's rail line at the location desired by the Buyer. Buyer shall have also received the binding commitment from Palmetto Railways which owns the actual line coming into the park and a "Letter of Service" from Norfolk Southern which operates the line and will provide the service.

Notwithstanding anything in this Agreement to the contrary, in the event the conditions set forth in (iv), (v), (vi), (vii), (viii) or (ix), are not satisfied by the Outside Closing Date, then, as Buyer's sole remedy therefore, Buyer may terminate this Agreement and receive a return of the Earnest Money.

6. Prorations and Adjustments to Purchase Price. The following prorations and adjustments shall be made between Buyer and Seller at Closing, or thereafter if Buyer and Seller shall agree, with respect to the Purchase Price:

(a) All city, state and county ad valorem taxes and similar impositions levied or imposed upon or assessed against the Property, if any, (hereinafter called the "***Impositions***") for the year in which Closing occurs shall be prorated as of the Closing Date. Seller shall be responsible for any rollback taxes, if any. In the event the Impositions for such year are not determinable at the time of Closing, said Impositions shall be prorated on the basis of the best available information, and the parties shall re-prorate the Impositions for such year promptly upon the receipt of the imposition bills for such year and shall make between themselves any equitable adjustment required by reason of any difference between the estimated amount of the Impositions used as a basis for the proration at Closing and the actual amount of the Impositions for such year. This obligation shall survive Closing and recordation of the Deed. In the event any of the Impositions are due and payable at the time of Closing, the same shall be paid at Closing. If the Impositions are not paid at Closing, Buyer shall be responsible for payment in full of the Impositions within the time fixed for payment thereof and before the same shall become delinquent. Seller shall deliver to Buyer the bills for the Impositions promptly upon receipt thereof.

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

7. Title.

(a) Seller covenants to convey to Buyer at Closing fee simple insurable and marketable title in and to the Property, subject only to the following: (i) current city, state and county ad valorem taxes not yet due and payable; (ii) all matters of record, provided the same do not render the Property unusable for its intended purpose, unmarketable or uninsurable; (iii) all matters which would be revealed by a current survey of the Property; and (iv) easements for the installation or maintenance of public utilities serving only the Property (collectively, "**Permitted Exceptions**").

(b) Buyer may, at Buyer's expense and prior to the end of the Inspection Period, examine the title to the Property and shall give Seller written notice of any objections which render Seller's title less than fee simple marketable title (each a "**Title Objection**"). Seller shall have until ten (10) days from the date of receipt of such notice (the "**Seller Response Period**") in which to agree to satisfy on or before the Closing Date, or satisfy all Title Objections specified in Buyer's initial notice of Title Objections, but shall have no obligation to do so. In the event Seller fails to provide a response by the end of the Seller Response Period, then Seller shall be deemed to have elected not to cure any Title Objections. If Seller fails to satisfy any Title Objection or refuses to cure the same, then, at the option of Buyer, Buyer may: (i) terminate this Agreement by providing written notice within ten (10) days of Seller's written response or deemed response to the Title Objections, in which event the Earnest Money shall be refunded to Buyer promptly upon request and thereafter all obligations of the parties under this Agreement shall expire, and except as expressly set forth herein to the contrary, this Agreement shall be of no further force or effect; or (ii) waive the Title Objection and any such Title Objection shall become a Permitted Exception for all uses and purposes hereunder. In the event Buyer does not timely terminate this Agreement under (i), above, then Buyer shall be deemed to have elected to proceed to Closing under (ii). At any time prior to the Closing Date, Buyer may update title to the Property, and if any matters of title have arisen since the date of the Buyer's initial title examination, Buyer shall give written notice to Seller of the same, and the same provisions shall apply with respect to the obligations of Seller and Buyer's rights and remedies in the event that Seller does not cure the Title Objections.

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

(d) Except as provided hereinafter, from and after the Effective Date of this Agreement through Closing, Seller shall not mortgage or otherwise encumber the Property, or take any action or permit any happening that would interfere with the transaction contemplated by this Agreement, including granting or imposing any timber rights or deeds, easements, warranty, conditions or restrictions with respect to the Property without obtaining Buyer's consent, which shall not be unreasonably withheld, conditioned, or delayed.

8. Survey.

(a) Seller has ordered a survey of the Property ("**Survey**") prepared by a surveyor registered and licensed in the State of South Carolina. Seller will provide a copy to Buyer upon receipt. The Survey shall be reasonably acceptable to Buyer, and Seller shall cause the surveyor to comply with reasonable requests from

Buyer as to the ALTA Table A items depicted on the Survey. Such survey shall be signed by the surveyor and certified to the Buyer, Buyer's title company, and any other parties reasonably requested by Buyer.

(b) A subdivision is required pursuant to applicable law in connection with the conveyance of the Property to Buyer. Subject to the terms of this Agreement, the Property to be conveyed to Buyer shall contain approximately the acreage set forth in Section 2 from the parent tract of which the Property. Seller shall have prepared a draft of the subdivision plat depicting the Property as approximately as shown on Exhibit A (the "Subdivision Plat"), and shall deliver a copy to Buyer prior to the end of the Inspection Period. Buyer and Seller shall use commercially reasonable efforts to agree to the form and boundaries of the Exempt Subdivision Plat prior to the expiration of the Inspection Period. In the event Buyer and Seller do not agree to the final form of the Subdivision Plat prior to the end of the Inspection Period, then both Buyer and Seller shall have the right to terminate this Agreement at any time prior to the determination of the final form of the Subdivision Plat by Buyer and Seller. Upon any such termination, the Earnest Money shall be returned to Buyer and the parties hereto shall have no further rights, obligations or liabilities to each other hereunder except as otherwise set forth herein. After determination of the Subdivision Plat and prior to Closing, Seller shall cause the Property to be properly subdivided in compliance with such applicable law ("Subdivision Approval"), which Subdivision Plat shall be executed by the Seller at the time of recordation. Seller shall endeavor to obtain Subdivision Approval as soon as reasonably practicable. The legal description of the Property set forth in the limited warranty deed to be delivered by Seller at Closing shall be based upon the approved Subdivision Plat.

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

9. Investigation of the Property.

(a) Buyer shall have until the day which is **one hundred twenty (120)** days following the Effective Date, herein called the "*Inspection Period*", in which to examine and investigate the Property (the "*Due Diligence Activities*"), and to determine whether the Property is suitable and satisfactory to Buyer. In the event that Buyer shall determine, in Buyer's sole and absolute judgment and discretion, that the Property is in any manner unsuitable or unsatisfactory to Buyer, Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving written notice thereof to Seller on or before 5:00 p.m. Eastern Standard Time on the last day of the Inspection Period, in which event the full amount of the Earnest Money shall be refunded to Buyer immediately upon request, all rights and obligations of the parties under this Agreement shall expire except those which expressly survive termination of this Agreement, and this Agreement shall become null and void.

(b) At any time prior to the Closing Date, Buyer and Buyer's agents, employees, contractors, representatives and other designees (herein collectively called "*Buyer's Designees*") shall have the right to enter the Property for the purposes of inspecting the Property and making surveys, mechanical and structural engineering studies, and any other investigations and inspections as Buyer may reasonably require to assess the condition of the Property, provided Buyer gives Seller at least one (1) business day prior written notice of each inspection.



If Buyer terminates this Agreement prior to the end of the Inspection Period, then any and all inspection and reports obtained by Buyer in investigation of the Property (the “*Buyer Due Diligence Materials*”) will be delivered to the Seller, at no expense, within thirty days of Buyer’s termination of this Agreement. Seller will not be required to return the Earnest Money until all Buyer Due Diligence Materials have been delivered to the Seller. All Buyer Due Diligence Materials will be delivered without representation or warranty of any type from Buyer.

(c) On or before the date five (5) business days after the Effective Date, Seller shall deliver to Buyer, if not previously delivered, or make available to Buyer for examination or copying by Buyer, at the address for Buyer set forth below Buyer’s execution of this Agreement, the following documents and information with respect to the Property, to the extent in Seller’s possession: (i) all surveys, plans, specifications, engineering and mechanical data relating to the Property, including such items as soils reports and environmental audits, which are in Seller’s possession or which Seller can obtain with reasonable effort; (ii) all real property and other ad valorem tax bills and utility bills regarding the Property for the two-year period preceding the effective date; (iii) a copy of any policy of title insurance issued in favor of Seller, together with legible copies of all instruments referenced therein; and (iv) a copy of any commercial appraisal of the Property that Seller has in its possession.

(d) Buyer expressly agrees as follows: (i) any activities by or on behalf of Buyer, including, without limitation, the entry by Buyer or Buyer’s Designees onto the Property in connection with the Due Diligence Activities shall not materially damage the Property in any manner whatsoever, (ii) in the event the Property is damaged in any manner in connection with the Due Diligence Activities, Buyer shall promptly return the Property to the condition existing prior to the Due Diligence Activities, and (iii) Buyer shall indemnify, defend and hold Seller harmless from and against any and all claims, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, attorneys’ fees and expenses and court costs) suffered, incurred or sustained by Seller as a result of, by reason of, or in connection with the Due Diligence Activities or the entry by Buyer or Buyer’s Designees onto the Property, *provided, however,* that Seller shall not be entitled to indemnification hereunder to the extent any such claim is caused by: (i) the acts or omission of Seller, (ii) liability arising out of the mere discovery or exposure of an existing condition with respect to the Property, or (iii) the effect of any governmental action which results from any tests, studies or reports obtained by Buyer. Notwithstanding any provision of this Agreement to the contrary, Buyer shall not, without the prior written consent of Seller, which may not be unreasonably withheld or conditioned, undertake any invasive activities or tests upon the Property, or any environmental testing on the Property beyond the scope of a standard “Phase I” investigation. In connection with the foregoing, the Seller’s withholding of consent due to a Recognized Environmental Condition being identified in a Phase I Environmental Site Assessment shall not be deemed unreasonable.

(e) Upon receipt of a written request from Seller, Buyer will provide Seller with lien waivers following completion of the Due Diligence Activities from each and every contractor, materialman, engineer, architect and surveyor who might have lien rights, in form and substance reasonably satisfactory to Seller. Buyer shall be bound by the same indemnification, defense, and hold harmless obligation as specified above in Section 8(d) with respect to any claims or demands for payment, or any liens or lien claims made against Seller or the Property, arising out of the Due Diligence Activities.

(f) Buyer shall, and shall cause all of the Buyer’s Designees performing the Due Diligence Activities to, procure or maintain a policy of commercial general liability insurance issued by an insurer reasonably satisfactory to Seller covering each of the Due Diligence Activities with a single limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, and to deliver to Seller a certificate of insurance evidencing that such insurance is in force and effect and naming Seller as additional insured. Such insurance shall be maintained in force throughout the term of this Agreement.

10. Rezoning. Seller, at its sole cost and expense has applied for a zoning map amendment in Richland County, South Carolina, to cause the zoning district applicable to the Property to be “HI-Heavy Industrial” which district permits battery materials recycling as a use permitted by right (the “Rezoning”). Seller shall take all commercially reasonable steps necessary to cause the Rezoning to be approved in a timely manner and shall use its best efforts to complete the Rezoning on or before April 4, 2023.

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

(a) Seller shall deliver to Buyer the following documents and instruments, duly executed by or on behalf of Seller: (i) special warranty deed, (the “*Deed*”) in the form attached as Exhibit B to Purchaser, conveying the Property; (ii) an Owner's Affidavit, in form and substance reasonably acceptable to Buyer's title insurer and Seller, with respect to the Property, which is sufficient to enable Buyer's title insurer to delete the removable standard pre-printed exceptions to the title policy to be issued pursuant to the Title Commitment; (iii) if required by the Title Company, a certificate of Seller stating that Seller is not a “foreign person” under §1445 of the Internal Revenue Code, as amended, and applicable regulations; (iv) such other documents as may be reasonably required by Buyer's title insurer as a condition to insuring Buyer's title to the Property free of exceptions other than the Permitted Exceptions; and (v) evidence in form and substance reasonably satisfactory to Buyer that Seller has the power and authority to execute and enter into this Agreement and to consummate the purchase and sale of the Property.

(b) Buyer shall deliver to Seller the following funds, documents and instruments, duly executed on behalf of Buyer: (i) the Purchase Price in accordance with the terms of this Agreement; (ii) evidence in form and substance reasonably satisfactory to Seller that Buyer has the power and authority to execute and enter into this Agreement and to consummate the purchase and sale of the Property.

(c) Right of Repurchase; Right of Reimbursement. The Deed shall contain a clause that provides that fee simple title to the Property is conveyed subject to the following which will attach to and run with the Property:

(i) Right of Repurchase. If the construction of vertical improvements constituting a portion of the Buyer's intended facility (“*Construction Commencement*”) have not commenced within twelve (12) months of the Closing Date (the “*Construction Commencement Period*”), then Seller shall have the right (but not the obligation) to exercise an option to repurchase the Property (the “*Repurchase Option*”) by providing written notice to Buyer that Seller intends to exercise its Repurchase Option (the “*Repurchase Notice*”) no later than ninety (90) days after the date of expiration of the Construction Commencement Period. Buyer will be obligated to convey the Property to Seller in the manner stated below. The Repurchase Option shall apply to all of the Property. The repurchase price for the Property will be the same as the Purchase Price paid to Seller. Upon the exercise of the Repurchase Option, the Seller can repurchase the Property at any time during the ensuing twelve-month period (the “*Repurchase Period*”). In the event the Repurchase Option is exercised, Buyer covenants, represents and warrants to the Seller that the title to the Property shall be good, marketable, and insurable fee-simple absolute title, free and clear of any and all liens and encumbrances and tenancies thereon, and being subject to only the Permitted Exceptions stated and set forth and specified on Exhibit D. In the event the Repurchase Option is exercised, Buyer shall execute a deed and any other affidavits or documents reasonably required by Seller to effectuate the transfer back to Seller. Buyer shall not sell, transfer or otherwise convey the Property during the Repurchase Period.

(ii) Right of Reimbursement. If the Buyer achieves Construction Commencement within the Construction Commencement Period, but fails to invest Three Hundred Twenty-Three Million and No/100 Dollars (\$323,000,000.00) (the “*Minimum Investment*”) within ten (10) years of the Closing Date (the “*Investment Period*”), then Buyer shall pay to Seller the

difference between the Purchase Price and the Fair Market Value (the “*Pro Rata Reimbursement*”), as hereinafter defined, within thirty (30) days of receipt of written notice from Seller. For the purposes of this Section 11, “*Fair Market Value*” shall mean an amount equal to the total acreage of the Property, as determined on the Survey, multiplied by Twenty-Five Thousand and No/100 Dollars (\$25,000.00). The Pro Rata Reimbursement shall be calculated according to the formula set forth in the Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement dated as of \_\_\_\_\_, 2023, between the Buyer and the Seller.

12. Costs of Closing.

(a) Seller shall pay Seller's attorneys' fees, the cost of the Survey, the transfer fees associated with the recording of the limited warranty deed, and other fees or charges of any kind or nature customarily paid by sellers in similar transactions in South Carolina, including the deed recording fee imposed by S.C. Code Ann. § 12-24-10 and the cost of recording any instruments required to discharge any liens or encumbrances against the Property by or through Sellers that are required to be discharged by Sellers pursuant to the express terms and provisions of this Contract.

(b) Buyer shall pay Buyer's attorney fees, the customary closing costs of the Escrow Agent, Buyer's inspection costs, all costs and expenses associated with the preparation of the title commitment and the premium for the owner's policy of title insurance to be issued in favor of Buyer insuring Buyer's title to the Property pursuant to Section 6(b) hereof, and the recording costs associated with the recording of the Seller's deed to Buyer.

(c) All other costs and expenses of the transaction contemplated hereby shall be borne by the party incurring the same.

13. Possession at Closing. Seller shall surrender possession of the Property to Buyer at Closing.

14. Representations and Warranties; AS-IS.

(a) In order to induce Buyer to enter into this Agreement, Seller represents and warrants to Buyer as follows:

(i) That, on the Closing Date, Seller shall have fee simple title to the Property, subject only to the Permitted Exceptions.

(ii) That this Agreement has been duly authorized and executed on behalf of Seller and constitutes the valid and binding agreement of Seller, enforceable against Seller in accordance with its terms.

(iii) That there are no actions, suits or proceedings pending or threatened against, by or affecting Seller which affect title to the Property or which question the validity or enforceability of this Agreement or of any action taken by Seller under this Agreement, in any court or before any governmental authority, domestic or foreign; and that there are no pending, threatened or contemplated condemnation actions involving all or any portion of the Property.

(iv) That the execution and delivery of the documents and instruments to be executed and delivered by Seller on the Closing Date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Property as contemplated by and provided for in this Agreement, are, to the best of Seller's knowledge, consistent with and not in violation of, and will not create any adverse condition under,

any contract, agreement or other instrument to which Seller is a party, or any judicial order or judgment of any nature by which Seller is bound.

(v) That to the best of Seller's knowledge, information and belief without independent inquiry, Seller has not received notice of any violation of any statute, ordinance or regulation for the protection of human health or the environment.

(vi) There is no pending litigation or dispute concerning the location of the lines and corners of the Property.

(vii) Seller has received no written notice that any municipality or any governmental or quasi-governmental authority has determined that there are any violations of zoning, health, environmental or other statutes, ordinances or regulations affecting the Property, and Seller has no actual knowledge of any such violations. In the event Seller receives notice of any such violations affecting the Property prior to Closing, Seller promptly shall notify Buyer thereof.

(b) The obligation of Buyer that arises to purchase the Property at Closing and to perform under this Agreement shall be subject to the representations and warranties made by Seller in this Agreement being true as of the date of this Agreement and as of the Closing Date, and Seller having performed all covenants and obligations and complied with all conditions required of it by this Agreement.

(c) AS-IS CONDITION OF PROPERTY/NO ADDITIONAL REPRESENTATIONS. Buyer acknowledges and agrees that the Property is being sold "AS IS, WHERE IS." Other than as set forth in (i) Section 12(a) above and (ii) the limited warranty of title to be included in Seller's deed (collectively, the "Seller's Warranties"), **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO (I) THE NATURE, QUALITY, OR CONDITION OF THE PROPERTY; (II) THE INCOME TO BE DERIVED FROM THE PROPERTY; (III) THE SUITABILITY OF THE PROPERTY FOR ANY USE OR USES BUYER MAY INTEND TO CONDUCT; (IV) THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (V) THE ENVIRONMENTAL CONDITION OF THE PROPERTY; (VI) ACCESS TO AND FROM THE PROPERTY; OR (VII) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY.** Buyer acknowledges that Buyer has entered into this Agreement with the intention of making and relying upon its own investigation of the physical, environmental, economic use, compliance, and legal condition of the Property and that Buyer is not now relying, and will not later rely, upon any representations and warranties made by Seller or anyone acting or claiming to act, by, through or under or on Seller's behalf concerning the Property, except for Seller's Warranties. The provisions of this Section 14 shall survive indefinitely any Closing or termination of this Agreement and shall not be merged into the Closing documents.

## 15. Remedies

(a) Provided that Seller is not in default under this Agreement, if the purchase and sale of the Property is not consummated in accordance with the terms and conditions of this Agreement due to circumstances or conditions which constitute a default by Buyer under this Agreement and such default is not cured within ten (10) days after written notice by Seller to Buyer specifying the default, the Earnest Money shall be retained by Seller as full liquidated damages for such default. The parties acknowledge that Seller's actual damages in the event of a default by Buyer under this Agreement will be difficult to ascertain, and that such liquidated damages represent the parties' best estimate of such damages. The parties expressly acknowledge that the foregoing liquidated damages are not intended as a penalty. Such retention of the Earnest Money shall be the sole and exclusive remedy of Seller by reason of a default by Buyer under this Agreement, and Seller hereby waives and releases any right to sue Buyer, and hereby covenants not to sue Buyer, for specific performance of this Agreement or to prove that Seller's actual damages exceed the amount which is

herein provided to Seller as full liquidated damages. If Buyer's default is a post-closing default of its obligations hereunder, including, without limitation, Buyer's obligations under Section 9(c), then Seller shall have all remedies available at law and equity, including, without limitation, specific performance.

(b) Provided that Buyer is not in default under this Agreement, if the purchase and sale of the Property is not consummated in accordance with the terms and conditions of this Agreement due to circumstances or conditions which constitute a default by Seller under this Agreement, then Buyer shall be entitled to either (i) terminate this Agreement by giving written notice of strict termination to Seller whereupon the Earnest Money shall be returned to Buyer, Seller shall reimburse Buyer for all verified actually incurred inspection costs and expenses including legal services incurred in connection with the Property not to exceed Fifty Thousand and No/100 Dollars (\$50,000.00) and this Agreement shall be deemed null and void and of no further force or effect, and no party hereto shall have any further rights, obligations or liabilities hereunder except those which expressly survive termination, or (ii) seek specific performance of this Agreement; *provided, however*, that in the event that the court is unable to enforce specific performance of this Agreement as a result of an intentional act of Seller in violation of its obligations under this Agreement, Buyer shall be entitled to recover its actual damages in lieu of specific performance.

16. Condemnation. In the event of the taking of all or any portion of the Property by eminent domain proceedings, or the commencement or bona fide threat of the commencement of any such proceedings, prior to Closing, Buyer shall have the right at Buyer's option, to terminate this Agreement by giving written notice thereof to Seller prior to Closing, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties under this Agreement shall expire, and this Agreement shall become null and void. If Buyer does not so terminate this Agreement, Seller shall assign to Buyer at Closing all rights of Seller in and to any awards or other proceeds paid or payable thereafter by reason of any taking. Seller shall notify Buyer of any eminent domain proceedings within five (5) days after Seller learns thereof.

17. Assignment. This Agreement may not be assigned by Buyer, except to an entity which is majority owned by and under common control with Buyer, without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned, or delayed.

18. Parties. This Agreement shall be binding upon, enforceable against, and shall inure to the benefit of the parties hereto and their respective legal representatives, successors and permitted assigns.

19. Brokers. Each party represents and warrants that it has not utilized the services of any broker in connection with this Agreement. Each party agrees to pay the claims, demands, actions, and judgments of any other brokers, agents and other intermediaries alleging a commission, fee or other payment to be owing by reason of its dealings, negotiations or communications in connection with this Agreement or purchase and sale of the Property. The obligation contained in this Section 17 shall expressly survive the Closing or any termination of this Agreement. Both Buyer and Seller acknowledge receiving, reading and understanding the South Carolina Real Estate Commission Agency Disclosure Form.

20. Survival. All of the representations, covenants and warranties of the parties in this Agreement shall survive the consummation of the purchase and sale of the Property on the Closing Date for a period of one (1) year.

21. Modification. This Agreement supersedes all prior discussions and agreements between Buyer and Seller with respect to the purchase and sale of the Property and other matters contained herein, and contains the sole and entire understanding between Buyer and Seller with respect thereto. This Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of Seller and Buyer.

22. Applicable Law. This Agreement shall be governed construed under and interpreted and enforced in accordance with the laws of the State of South Carolina and any litigation hereunder shall be conducted in state or federal court in South Carolina.

23. Time. Time is and shall be of the essence of this Agreement.

24. Captions. The captions and headings used in this Agreement are for convenience only and do not in any way restrict, modify or amplify the terms of this Agreement.

25. Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

26. Notices. Any notice, consent or other communication permitted or required by this Agreement shall be in writing, and shall be given to each party, at the address set forth below, in the following manner: (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, (c) United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (d) transmission by e-mail. Each such notice shall be deemed to have been given upon receipt or refusal to accept delivery, or, in the case of e-mail transmission, as of the date of the transmission provided that an original of such transmission also is sent to the intended address by one of the means described in clauses (a), (b) or (c) above. Unless and until changed as provided below, the addresses for notices given pursuant to this Agreement shall be as follows:

Buyer: [Cirba Solutions LLC]  
c/o K&L Gates LLP  
1601 K Street, NW  
Washington, DC 20006  
Attn: Olivia S. Byrne  
Email: olivia.byrne@klgates.com

Seller: Richland County, South Carolina  
2020 Hampton Street  
Columbia, South Carolina 29201  
Attn: County Administrator  
Email: brown.leonardo@richlandcountysc.com

With a copy to: Parker Poe Adams & Bernstein LLP  
1221 Main Street, Suite 1450  
Columbia, South Carolina 29201  
Attn: Todd Haynie, Esquire  
Email: toddhaynie@parkerpoe.com

27. Termination of Access Agreement. Upon full execution of this Agreement, that certain Right of Entry and Access Agreement between Seller and Buyer dated December \_\_ 2022 shall automatically terminate, and Buyer's access to the Property for its Due Diligence Activities shall be granted pursuant to Paragraph 9 herein.

28. Escrow Agent. The Escrow Agent joins in the execution of this Agreement solely for the purpose of acknowledging and agreeing to the provisions of this Section 26. The duties of the Escrow Agent shall be as follows:

(a) During the term of this Agreement, the Escrow Agent shall hold and disburse the Earnest Money in accordance with the terms and provisions of this Agreement.

(b) The Escrow Agent shall pay the Earnest Money in accordance with the joint written instructions of the Seller and the Buyer if this Agreement shall be terminated by the mutual written agreement of Seller and Buyer. However, if the Escrow Agent shall be unable to determine at any time to whom the Earnest Money should be paid, or if a dispute shall develop between Seller and Buyer concerning to whom the Earnest Money should be paid, then Escrow Agent shall send written notice to both Seller and Buyer. In the event that such written instructions shall not be received by the Escrow Agent within ten (10) days after the Escrow Agent has served a written request for instructions upon Seller and Buyer, then the Escrow Agent shall pay the Earnest Money into any court of competent jurisdiction and interplead Seller and Buyer in respect thereof, and thereupon the Escrow Agent shall be discharged of any obligations in connection with this Agreement.

(c) If costs or expenses are incurred by the Escrow Agent in its capacity as Escrow Agent because of litigation or a dispute between the Seller and Buyer arising out of the holding of the Earnest Money in escrow, Seller and Buyer shall each pay the Escrow Agent one-half of such reasonable costs and expenses. Except for such costs or expenses, no fee or charge shall be due or payable to the Escrow Agent for its services as Escrow Agent.

(d) Buyer and Seller hereby agree and acknowledge that the Escrow Agent assumes no liability in connection herewith except for negligence or willful misconduct and; that the Escrow Agent shall never be responsible for the validity, correctness or genuineness of any document or notice referred to under this Agreement.

(e) Escrow Agent shall not be liable for loss or damage resulting from (i) any default, error, action or omission of any party, other than Escrow Agent; (ii) any defect in the title to any property; (iii) the lack of authenticity of any writing delivered to Escrow Agent or of any signature thereto, or the lack of authority of the signatory to sign such writing; (iv) Escrow Agent's compliance with all attachments, writs, orders, judgments, or other legal process issued out of any court; (v) any loss or damage which arises after the Earnest Money has been disbursed in accordance with the terms of this Agreement.

*Signature page to follow.*

The parties hereto have executed this Agreement as of the Effective Date.

**SELLER:**

**Richland County, South Carolina**

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

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

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

**BUYER:**

**[Cirba Solutions, LLC]**

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

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

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

[signatures continue on following page]



**ESCROW AGENT SIGNATURE PAGE**

The undersigned executes the Agreement to which this signature page is attached for the purpose of agreeing to the provisions of Section Error! Reference source not found. of the Agreement, and hereby designates \_\_\_\_\_ as the escrow number assigned to this escrow.

**ESCROW AGENT:**

[ \_\_\_\_\_ ]

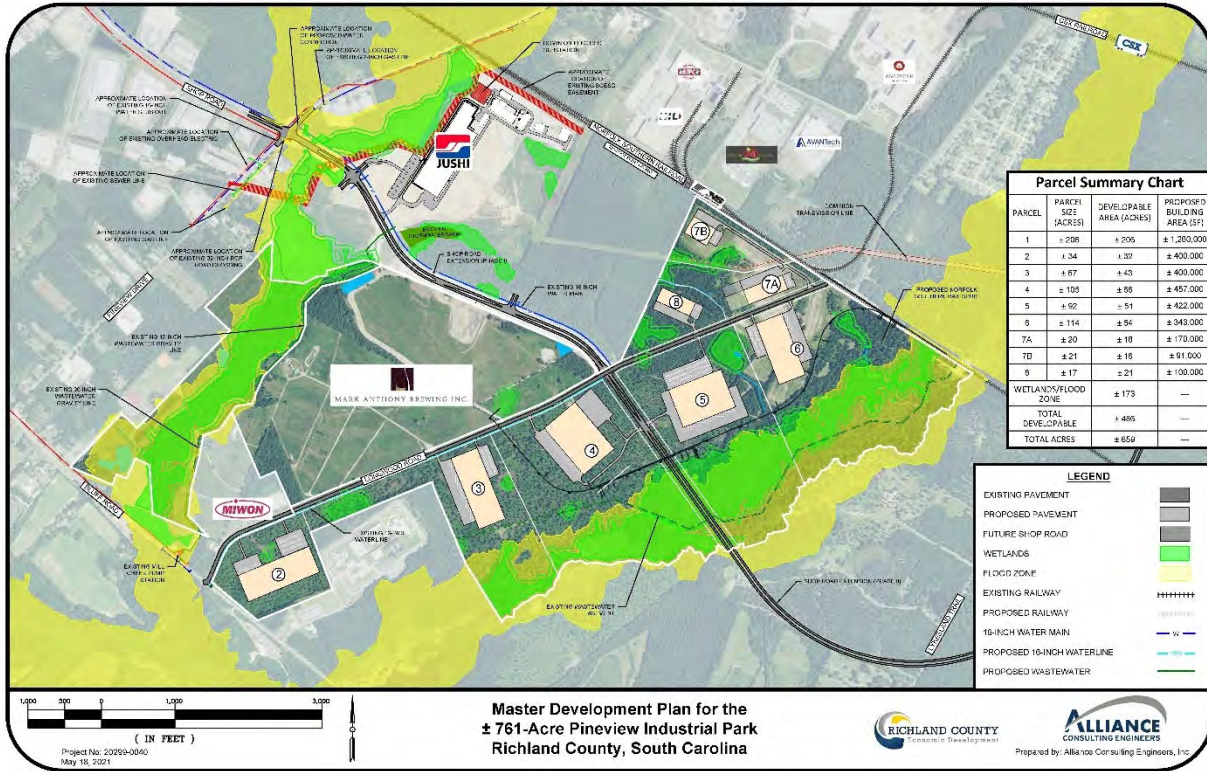
By: \_\_\_\_\_

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

Title:

# EXHIBIT A

## Depiction of the Property



PARCEL	PARCEL SIZE (ACRES)	DEVELOPABLE AREA (ACRES)	PROPOSED BUILDING AREA (SFT)
1	± 206	± 206	± 1,260,000
2	± 34	± 32	± 400,000
3	± 67	± 43	± 400,000
4	± 105	± 66	± 457,000
5	± 92	± 51	± 422,000
6	± 114	± 94	± 343,000
7A	± 20	± 18	± 170,000
7B	± 21	± 18	± 91,000
8	± 17	± 21	± 100,000
WETLANDS/FLOOD ZONE			± 173
TOTAL DEVELOPABLE		± 485	---
TOTAL ACRES		± 659	---

EXISTING PAVEMENT	
PROPOSED PAVEMENT	
FUTURE SHOP ROAD	
WETLANDS	
FLOOD ZONE	
EXISTING RAILWAY	
PROPOSED RAILWAY	
16-INCH WATER MAIN	
PROPOSED 16-INCH WATER LINE	
PROPOSED WASTEWATER	





EXHIBIT A  
LEGAL DESCRIPTION

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is approximately \_\_\_\_\_ acres in \_\_\_\_\_ County, bearing Tax Map Number \_\_\_\_\_, was transferred by \_\_\_\_\_ to \_\_\_\_\_, on \_\_\_\_\_, 2023.
3. Check one of the following: The deed is
  - (a)  subject to the deed recording fee as transfer for consideration paid or to be paid in money or money's worth
  - (b)  subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
  - (c)  exempt from the deed recording fee because of Number \_\_\_\_\_ listed below. (See Information):  
**(If exempt, skip items 4-7 and go to item 8.)**
4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information):
  - (a)  The fee is computed on the consideration paid or to be paid in money or money's worth of **\$5,600,000**.
  - (b)  The fee is computed on the fair market value of the realty which is \$\_\_\_\_\_.
  - (c)  The fee is computed on the fair market value of the realty as established for property tax purposes which is \_\_\_\_\_.
5. Check Yes  or No  to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes," the amount of the outstanding balance of this lien or encumbrance is: \_\_\_\_\_.
6. The deed recording fee is computed as follows:
  - (a) Place the amount listed in item 4 above here \$\_\_\_\_\_
  - (b) Place the amount listed in item 5 above here: \$\_\_\_\_\_  
(If no amount is listed, place zero here.)
  - (c) Subtract Line 6(b) from Line 6(a): \$\_\_\_\_\_
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$\_\_\_\_\_.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Seller.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

*Signature Page – Affidavit of Consideration*

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)

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

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

SWORN to before me this  
\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## **INFORMATION**

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interest in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, partnership, or a trust in order to become, or as, a stockholder, partner or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A).
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.



**EXHIBIT D**

Repurchase Permitted Exceptions

1. Ad valorem taxes for the year of Closing.
2. All zoning, subdivision, land use and other laws, regulations or ordinances applicable to the Property.
3. Any matter disclosed by Buyer's title insurance policy from Buyer's acquisition of the Property.

## Richland County Council Request for Action

**Subject:**

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to a company known to the county as Project Wichita; and other related matters

**Notes:**

First Reading: March 7, 2023

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

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

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

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

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

WHEREAS, Project Wichita (“Company”) desires to develop a conventional multi-housing development within the County (“Project”), consisting of taxable investments in real and personal property of not less than \$90,000,000;

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

WHEREAS, the City of Columbia, South Carolina, the municipality in which the Property is located, must consent to the expansion of the boundaries of the Park to include the Property in the Park in accordance with Section 4-1-170(C) of the Act; and

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

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

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

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

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

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

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

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

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

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading:        March 7, 2023  
Second Reading:    March 21, 2023  
Public Hearing:  
Third Reading:

**EXHIBIT A**  
**FORM OF AGREEMENT**

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**PUBLIC INFRASTRUCTURE CREDIT AGREEMENT**

**by and between**

**RICHLAND COUNTY, SOUTH CAROLINA**

**and**

**PROJECT WICHITA**

**Effective as of: [April 4, 2023]**

## PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

This PUBLIC INFRASTRUCTURE CREDIT AGREEMENT, effective as of [DATE] (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and a company known to the county as Project Wichita, a South Carolina limited liability company (“Company” together with the County, “Parties,” each, a “Party”).

### WITNESSETH:

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

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

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

WHEREAS, the Company has committed to develop a Conventional Multi-Family Housing Development in the County (“Project”) on property more particularly identified by Exhibit A (“Land”), consisting of taxable investment in real and personal property of not less than \$90,000,000;

WHEREAS, by an ordinance enacted on [DATE] (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property relating to the Project (“Property”) in the Park and the City of Columbia, South Carolina consented to such expansion of Park boundaries by an ordinance enacted on [\_\_\_\_\_, 2023] in accordance with Section 4-1-170(C) of the Act; and

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

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



## ARTICLE I REPRESENTATIONS

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

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

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

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

## ARTICLE II PUBLIC INFRASTRUCTURE CREDITS

**Section 2.1. *Investment Commitment.*** The Company shall invest not less than \$90,000,000 in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below. The Company shall certify to the County achievement of the Investment Commitment by no later than December 31, 2028 ("Certification Date"), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment, in form and substance reasonably acceptable to the County. If the Company fails to achieve and certify the Investment Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the Company is no longer entitled to any further

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

**Section 2.2. Public Infrastructure Commitment.**

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

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

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

**Section 2.3. Public Infrastructure Credits.**

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

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

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

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

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

**Section 2.4. Filings.** To assist the County in administering the Public Infrastructure Credits, the Company shall, for the Credit Term, prepare and file with the County such separate schedules or information with respect to the Property as may be necessary to distinguish the Property from any other property of the Company. Additionally, the Company shall, on or before January 31 of each year during the Credit Term, which is anticipated to commence on or before in January 31, 2025, deliver to the Economic Development Director of the County the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit D, as may be amended by subsequent resolution, with respect to the Company.

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

### ARTICLE III DEFAULTS AND REMEDIES

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

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

(b) An abandonment or closure of the Project; For purposes of this Agreement, "abandonment or closure of the Project" means failure to place all or a portion of the Project in service by December 31, 2028;

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

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

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

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

**Section 3.2. Remedies on Default.**

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

(i) terminate the Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

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

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

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

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

**ARTICLE IV  
MISCELLANEOUS**

**Section 4.1. Examination of Records; Confidentiality.**

(a) The County and its authorized agents, at any reasonable time upon prior reasonable notice of not less than seven (7) business days, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purposes of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; (iii) verifying the investment in Public Infrastructure; and (iv) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

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

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

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

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

**Section 4.5. Limitation of Liability.**

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

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

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

**Section 4.6. Indemnification Covenant.**

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

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

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

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

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

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

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

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

if to the Company:

with a copy to

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

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

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

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

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

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

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

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

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

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

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

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



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

**RICHLAND COUNTY, SOUTH CAROLINA**

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk to Council, Richland County Council

*[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]*

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

**PROJECT WICHITA**

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

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

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

*[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]*

## **EXHIBIT A**

### **LAND DESCRIPTION**

All that certain real property located at 1409 Huger Street, Columbia, Richland County, South Carolina, containing approximately 5.88 acres, more or less, as shown on that certain plat prepared for South Carolina Electric & Gas Co. by Associated E & S, Inc. dated August 22, 2014, and last revised on march 12, 2015, and recorded in the office of the Register of Deeds for Richland County, South Carolina in plat book 2013, at page 2860, on march 23, 2015 [(the "**plat**"), a copy of which is attached hereto and incorporated herein..

TMS Number: Portion of 09009-13-01; and a portion of TMS Number 08912-13-01.

The Property does not include that portion of TMS Number 09009-13-01 located on the opposite side of Williams Street and also bounded by Lady Street.

**EXHIBIT B (See Section 2.2)**

**DESCRIPTION OF PUBLIC INFRASTRUCTURE**

**PUBLIC INFRASTRUCTURE IMPROVEMENTS (CORE)**

- **ADDITION OF 643-SPACE STRUCTURED PARKING FACILITY AND 42 SURFACE PARKING SPACES TO ACCOMMODATE DOWNTOWN VISITORS**
- **RELOCATION AND MODERNIZATION OF SEWER MAINS LOCATED ON-SITE**
- **RELOCATION AND MODERNIZATION OF STORMWATER MAINS LOCATED ON-SITE**
- **RELOCATION, MODERNIZATION AND BURYING OF ELECTRIC LINES LOCATED ON-SITE**
- **ADDITION OF SIDEWALKS ALONG ROADWAYS ADJACENT TO PROJECT**
- **COMPLETION OF REQUIRED ENVIRONMENTAL REMEDIATION AND CONTINUED MONITORING ACTIVITIES RELATED TO PRIOR INDUSTRIAL USES OF THE SITE**
- **ADDITION OF SITE LIGHTING**
- **ANY OFF-SITE ROADWAY IMPROVEMENTS**
- **ADDITION OF ADDITIONAL STORMWATER DETENTION/WATER QUALITY INFRASTRUCTURE TO IMPROVE WATER QUALITY FOR DRAINAGE BASIN THROUGHOUT DOWNTOWN, LEADING INTO CONGAREE RIVER**
- **ADDITION OF PUBLIC “POCKET PARK” AT CORNER OF HUGER ST AND WASHINGTON ST**
- **SOFT COSTS ATTRIBUTED TO RIGHT-OF-WAY, PARKING IMPROVEMENTS, UTILITY RELOCATION AND UPGRADE, ENVIRONMENTAL INCLUDING BUT NOT LIMITED TO: SITE WORK, ARCHITECTURAL, CIVIL ENGINEERING, DEVELOPER FEE, CONSTRUCTION MANAGEMENT FEE, INSPECTIONS, AND LEGAL/ADMINISTRATIVE/ACCOUNTING EXPENSES/INTEREST**

**TOTAL CORE PUBLIC INFRASTRUCTURE IMPROVEMENTS: [ ]**

**PUBLIC INFRASTRUCTURE IMPROVEMENTS (ANCILLARY)**

- **INCREASED COST OF CONSTRUCTION TO ADD “STOREFRONT” FACADE TO ACTIVATE SITE AND PROMOTE CONNECTIVITY WITH OTHER ADJACENT USES**
- **ADDITIONAL ARCHITECTURAL EXPENSE TO BETTER BLEND INTO THE DOWNTOWN LANDSCAPE (ESTIMATED COST: \$1,000,000)**
- **ADDITION OF LANDSCAPING ALONG ROADWAYS ADJACENT TO PROJECT**

**TOTAL ANCILLARY PUBLIC INFRASTRUCTURE IMPROVEMENTS: [ ]**

**EXHIBIT C (See Section 2.3)**

**DESCRIPTION OF PUBLIC INFRASTRUCTURE CREDIT**

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

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

**EXHIBIT D (See Section 2.5)**

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

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

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

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

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

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

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

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

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

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

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

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

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




RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA

  
Chair, Richland County Council

(SEAL)  
ATTEST:

  
Clerk to County Council

## Richland County Council Request for Action

**Subject:**

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

**Notes:**

First Reading: March 7, 2023

Second Reading:

Third Reading:

Public Hearing:

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

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

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

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

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

WHEREAS, A company currently identified as Project Siquono (the “Company”), has, as part of a commercial development to be located in the County, committed to establish market rate housing in the County (“Project”) including, and to be located on, land more particularly identified in the Agreement (as hereinafter defined) (“Land”), consisting of total taxable investment by the Company in real and personal property of not less than **[\$66,000,000]**, and in connection with the Project, anticipates making investment in certain Public Infrastructure;

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

WHEREAS, the City of Columbia, South Carolina, the municipality in which the Property is located, must consent to the expansion of the boundaries of the Park to include the Property in the Park in accordance with Section 4-1-170(C) of the Act; and

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

assisting in paying the costs of certain Public Infrastructure invested by the Company at, in, or in connection with, the Project, subject to the terms and conditions set forth in the Agreement.

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

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

**Section 2.** *Expansion of the Park Boundaries; Inclusion of Property.* The expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park is, contingent upon the City of Columbia's consent to such expansion in accordance with Section 4-1-170(C) of the Act, authorized. The Chair of County Council ("Chair") is authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries and the amendment to the Park Agreement. Pursuant to the terms of the Park Agreement, the expansion of the Park's boundaries to include the Property is complete on the adoption of this Ordinance by County Council, receipt of the consent of the City of Columbia as to the inclusion of the Property in the Park, and delivery of written notice to Fairfield of the inclusion of the Property in the Park, which written notice shall include a copy of this Ordinance and identification of the Property.

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

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

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

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

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

[End of Ordinance]

RICHLAND COUNTY, SOUTH CAROLINA

---

Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: March 7, 2023  
Second Reading: March 21, 2023  
Public Hearing:  
Third Reading:

**EXHIBIT A**  
**FORM OF AGREEMENT**

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**PUBLIC INFRASTRUCTURE CREDIT AGREEMENT**

**by and between**

**RICHLAND COUNTY, SOUTH CAROLINA**

**and**

**PROJECT SIQUONO**

**Effective as of: [\_\_\_\_\_, 2023]**

## PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

This PUBLIC INFRASTRUCTURE CREDIT AGREEMENT, effective as of [\_\_\_\_\_, 2023] (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and a company identified for the time being as PROJECT SIQUNO (as hereinafter defined “Company” together with the County, “Parties,” each, a “Party”).

### WITNESSETH:

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

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

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

WHEREAS, as part of a commercial development to be located in the County, the Company has committed to establish market rate housing in the County (“Project”) including, and to be located on, land more particularly identified on Exhibit A hereto (“Land”), consisting of total taxable investment by the Company in real and personal property of not less than **[\$66,000,000]**, and in connection with the Project, anticipates making investment in certain Public Infrastructure as further described herein;

WHEREAS, by an ordinance enacted on [\_\_\_\_\_, 2023] (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property comprising the Project (“Property”) in the Park, and the City of Columbia, South Carolina consented to such expansion of Park boundaries by an ordinance enacted on [\_\_\_\_\_, 2023] in accordance with Section 4-1-170(C) of the Act; and

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

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



**ARTICLE I  
REPRESENTATIONS**

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

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

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

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

**ARTICLE II  
PUBLIC INFRASTRUCTURE CREDITS**

**Section 2.1. *Investment Commitment.*** The Company shall invest not less than **[\$66,000,000]** in taxable property in the Project ("Investment Commitment") by [\_\_\_\_\_, 2028] ("Certification Deadline"). The Company shall certify to the County achievement of the Investment Commitment on a date no later than the Certification Deadline ("Certification Date"), by providing documentation, which documentation may include, without limitation, pay applications, invoices, and accounting logs, and, only with respect to the personal property portion of the Project, any SCDOR PT-100 filed by the Company with respect to the

Project, to the County's Economic Development Department sufficient to reflect achievement of the Investment Commitment, in form and substance reasonably acceptable to the County. Notwithstanding anything in this Agreement to the contrary, the Certification Date shall not be later than, and may not be extended past, the Certification Deadline. If the Company fails to achieve and so certify the Investment Commitment by the Certification Deadline, the County may terminate this Agreement and, upon any such termination, the Company shall no longer be entitled to any further benefits under this Agreement. Notwithstanding anything in this Agreement to the contrary, the Certification Deadline shall not be later than, and may not be extended past, the last day of the year which is five years after the effective date of this Agreement.

**Section 2.2. Public Infrastructure Commitment.**

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

(b) In connection with the Project, the Company has committed with commercially reasonable efforts to invest in the Public Infrastructure as described on Exhibit B hereto ("Company Public Infrastructure"). The Company shall certify its actual investment in the Company Public Infrastructure to the County on the Certification Date, by providing documentation, which documentation may include, without limitation, pay applications, invoices, and accounting logs, to the County's Economic Development Department sufficient to reflect the Company's investment in the Company Public Infrastructure, in form and substance reasonably acceptable to the County. If the Company fails to substantially complete the Company Public Infrastructure by the Certification Deadline in the cumulative total investment amount set forth on Exhibit B hereto, then the Company may not be entitled to the full value of the Public Infrastructure Credit as provided by this Agreement.

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

**Section 2.3. Public Infrastructure Credit.**

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

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

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

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

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

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

### ARTICLE III DEFAULTS AND REMEDIES

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

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

(b) An abandonment or closure of the Project; for purposes of this Agreement, "abandonment or closure of the Project" means failure to place all or a portion of the Project in service by December 31, 2028;

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

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

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

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

### **Section 3.2. Remedies on Default.**

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

(i) terminate this Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate this Agreement; or

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

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

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

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

#### **ARTICLE IV MISCELLANEOUS**

**Section 4.1. *Examination of Records; Confidentiality.***

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

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

**Section 4.2. *Assignment.*** The Company may assign or otherwise transfer any of its rights and interests in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably conditioned, withheld, or delayed. Notwithstanding the foregoing, any assignment of this Agreement, in whole or in part, to an affiliated entity of the Company is hereby approved without any further action of the County Council. The County's Director of Economic Development must receive notice of any assignment to an affiliated entity of the Company. For purposes of this Agreement, "affiliated entity" shall mean any corporation, limited liability company, partnership or other person or entity which now or hereafter owns all or part of the Company or which is now or hereafter owned in whole or in part by the Company, or by any partner, shareholder or owner of the Company, and shall also include any subsidiary, affiliate or other person, individual, or entity who now or hereafter bears a relationship to the Company as described in Section 267(b) of the Internal Revenue Code.

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

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

**Section 4.5. Limitation of Liability.**

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

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

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

**Section 4.6. Indemnification Covenant.**

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

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

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

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



“Administration Expenses” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys’ fees. Administration Expenses do not include any costs, expenses, including attorneys’ fees, incurred by the County (i) in defending challenges to the Fee Payments or Public Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County’s Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County’s choice.

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

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

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

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

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

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

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

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

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

[TWO SIGNATURE PAGES FOLLOW]



*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

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

**RICHLAND COUNTY, SOUTH CAROLINA**

---

Chair, Richland County Council

(SEAL)  
ATTEST:

---

Clerk to Council, Richland County Council

*[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]*

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

**PROJECT SIQUNO**

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

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

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

*[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]*

**EXHIBIT A**

**LAND DESCRIPTION**

**[\*Legal description to be modified, and Tax Map Number to be inserted, following third reading.]**

**EXHIBIT B** (See Section 2.2)

**DESCRIPTION OF COMPANY PUBLIC INFRASTRUCTURE**

The Company Public Infrastructure includes a site work, streetscaping, landscaping and public surface parking. Additional Public Infrastructure improvements include water, sewer and stormwater improvements and a public park with a walking path. The anticipated total cost of the Company Public Infrastructure is approximately \$7,545,945 and is further detailed below:

<b>Public Infrastructure Budget Estimate</b>	
<u>Description</u>	<u>Budget</u>
Site Work/Streetscaping/Landscaping (including public surface parking)	\$3,624,098
Water/Sewer/Stormwater Improvements	\$1,042,917
Water/Sewer/Stormwater Impact Fees	\$1,168,640
Retention and Detention Ponds	\$661,760
Public Parks & Walking Paths	\$456,500
General Conditions	\$592,029
<b>Total Public Infrastructure Costs</b>	<b>\$7,545,945</b>

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

**EXHIBIT C (See Section 2.3)**

**DESCRIPTION OF PUBLIC INFRASTRUCTURE CREDIT**

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

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

**EXHIBIT D (See Section 2.4)**

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

See attached.

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

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

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

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

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

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

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

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

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

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

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

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




RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA

  
\_\_\_\_\_  
Chair, Richland County Council

(SEAL)  
ATTEST:

  
\_\_\_\_\_  
Clerk to County Council

## Richland County Council Request for Action

**Subject:**

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

**Notes:**

First Reading: March 7, 2023

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

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

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

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

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

WHEREAS, a company identified for the time being as Project Charlie Echo (“Sponsor”), desires to expand certain manufacturing and related facilities in the County (“Project”), which the Sponsor anticipates will consist of, in the aggregate, taxable investment in real and personal property of not less than \$16,500,000 and the creation of, in the aggregate, at least 100 new, full-time jobs; and

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

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

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

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

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

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

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

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

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

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

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

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

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

[End of Ordinance]

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: March 7, 2023  
Second Reading: March 21, 2023  
Public Hearing:  
Third Reading:

**EXHIBIT A**

**FORM OF FEE AGREEMENT**

See attached.

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

**BETWEEN**

**PROJECT CHARLIE ECHO**

**AND**

**RICHLAND COUNTY, SOUTH CAROLINA**

**EFFECTIVE AS OF [●]**

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**SUMMARY OF CONTENTS OF  
FEE AGREEMENT**

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

<b>PROVISION</b>	<b>BRIEF DESCRIPTION</b>	<b>SECTION REFERENCE</b>
<b>Sponsor Name</b>	[●]	Section 1.1, Page [●]
<b>Project Location</b>	[●]	
<b>Tax Map No.</b>	[●]	Exhibit A
<b>FILOT</b>		
• Phase Exemption Period	30 years	Section 1.1, Page [●]
• Contract Minimum Investment Requirement	\$16,500,000	Section 1.1, Page [●]
• Contract Minimum Jobs Requirement	100	Section 1.1, Page [●]
• Investment Period	5 years	Section 1.1, Page [●]
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• Claw Back Information	Termination of Fee Agreement and claw back if investment does not reach the Act Minimum Investment Requirement	Section 6.1, Page [●]
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• Brief Description	60% Special Source Credit against each FILOT Payment due from the Sponsor during the Credit Term	Exhibit D
• Credit Term	12 consecutive tax years, commencing with the tax year for which the initial FILOT Payment is due from the Sponsor under this Fee Agreement	Exhibit D
• Claw Back Information	Pro-rata claw back and prospective reduction in Special Source Credits if investment does not reach the Contract Minimum Investment Requirement and/or jobs do not reach the Contract Minimum Jobs Requirement	Section 6.2, Page [●] and Exhibit E
<b>Other Information</b>	N/A	N/A

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

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of [●], between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and a company identified for the time being as Project Charlie Echo (“*Sponsor*”).

### WITNESSETH:

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

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

(c) The Sponsor has committed to expand certain manufacturing and related facilities (“*Facility*”) in the County, which the Sponsor anticipates will consist of, in the aggregate, taxable investment in real and personal property of not less than \$16,500,000 and the creation of, in the aggregate, at least 100 new, full-time jobs;

(d) By an ordinance enacted on [●], County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT, certain Special Source Credits, and other incentives, as more particularly described in this Fee Agreement, to induce the Sponsor to expand the Facility in the County.

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

### ARTICLE I DEFINITIONS

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

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

“*Act Minimum Investment Requirement*” means an investment of at least \$2,500,000 in the Project within five years of the Commencement Date, which investment amount shall be calculated in accordance with, and subject to, Section 12-44-130 of the Act.

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

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

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

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

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property in the Project of not less than \$16,500,000, in the aggregate, within the Investment Period.

“**Contract Minimum Jobs Requirement**” means not less than 100 new, full-time jobs created by the Sponsor in the County in connection with the Project.

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

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

“**Credit Term**” means the years during the Fee Term in which a Special Source Credit is applicable, as described in Exhibit D.

“**Department**” means the South Carolina Department of Revenue, or any successor entity thereto.

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

“**Economic Development Property**” means those items of real and tangible personal property comprising the Project placed in service within the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

“**Equipment**” means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions now or hereafter acquired for use on or about the Real Property.

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

“**Fee Agreement**” means this Fee-In-Lieu of *Ad Valorem* Taxes and Incentive Agreement, as originally executed and as may be supplemented or amended from time to time.

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

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

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

“*Final Termination Date*” means the later of (i) the date on which the last FILOT Payment with respect to the Final Phase is made, or (ii) the date on which all Special Source Credits due from the County hereunder have been fully provided by the County, unless this Fee Agreement is first terminated in accordance with the terms of this Fee Agreement.

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

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

“*Investment Period*” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Sponsor presently anticipates, and the County hereby acknowledges and agrees, that the Investment Period, unless so extended, will end on [●]

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

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

“*Net FILOT Payment*” means each annual FILOT Payment net of the applicable Special Source Credit.

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

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

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

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

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

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

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

“**South Carolina Freedom of Information Act**” means Title 30, Chapter 4 of the Code.

“**Special Source Credits**” means the special source revenue credits provided to the Sponsor pursuant to Section 4-1-175 of the MCIP Act and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Special Source Credits are to be used for the payment of, or reimbursement for, Infrastructure constituting real property, improvements and infrastructure before any use for the payment of, or reimbursement for, Infrastructure constituting personal property, notwithstanding any presumptions to the contrary in the MCIP Act or otherwise.

“**Sponsor**” means a company identified for the time being as Project Charlie Echo and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

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

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

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

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

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

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

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter

into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

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

(c) The County identified the Project, as a "project" on [●] by adopting an Inducement Resolution, as defined in the Act on [●].

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

(e) The County has located or will take all reasonable action to locate the Project in the Multicounty Park on terms, and for a duration, sufficient to facilitate the County's provision of the Special Source Credits set forth in this Fee Agreement.

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

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

(b) The Sponsor intends to operate the Project as a [●] facility and for such other purposes that the Act permits as the Sponsor may deem appropriate.

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

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

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

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT, Special Source Credits, and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives

with respect to any question of eligibility or applicability of the FILOT, Special Source Credits, and other incentives granted by this Fee Agreement.

### **ARTICLE III THE PROJECT**

**Section 3.1. *The Project.*** The Sponsor intends and expects to (i) construct or acquire, or cause the construction or acquisition of, the Project and (ii) meet, or cause to be met, the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 20[●]. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement and/or the Contract Minimum Jobs Requirement are not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

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

#### **Section 3.3. *Filings and Reports.***

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

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

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

### **ARTICLE IV FILOT PAYMENTS**

#### **Section 4.1. *FILOT Payments.***

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property and Improvements portion of the Phase, the County and the Sponsor have



elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by

- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate equal to 580.5 mills, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 20[●].

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

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

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

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

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace and such replacement occurs after the end of the Investment Period.

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

**Section 4.4. Damage or Destruction of Economic Development Property.**

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the tax year corresponding to the calendar year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT

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

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

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

#### **Section 4.5. Condemnation.**

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

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

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

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

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

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

## **ARTICLE V**

## ADDITIONAL INCENTIVES

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

For each tax year for which a Special Source Credit is applicable, the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit D. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

## ARTICLE VI CLAW BACKS

**Section 6.1. *FILOT Claw Back.*** If the Sponsor fails to achieve the Act Minimum Investment Requirement, without regard to any extension permitted by this Fee Agreement or the Act, then this Fee Agreement shall immediately terminate and the Sponsor shall make payments as required by the Act.

**Section 6.2. *Special Source Credits Claw Back.*** If the Sponsor fails to perform its obligations under this Fee Agreement as described in Exhibit E, then the Sponsor is subject to the claw backs as described in Exhibit E with respect to the Special Source Credits. Any amount that may be due from the Sponsor to the County as calculated in accordance with or described in Exhibit E is due within 30 days of receipt of a written statement from the County. If not timely paid, the amount due from the Sponsor to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section 6.2 and Exhibit E survives termination of this Fee Agreement.

## ARTICLE VII DEFAULT

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

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

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency of such payment and requesting that it be remedied;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a "*Cessation of Operations*" means a publicly announced closure of the Facility made by the Sponsor or a complete cessation of operations at the Project that continues for a period of twelve (12) consecutive months;

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

(e) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a) and (b) above), which failure has not been cured within 30

days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;

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

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

### **Section 7.2. Remedies on Default.**

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

(i) terminate this Fee Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; or

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

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

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

## **ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS**

**Section 8.1. Right to Inspect.** The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of permitting the County to carry out its duties and obligations in its sovereign capacity (such as,

without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

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

**Section 8.3. Indemnification Covenants.**

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

(b) In the event the County resists or defends against any Claim on behalf of an Indemnified Party, the County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its reasonable costs, including reasonable attorneys’ fees, incurred in connection with the County’s response to or defense against such Claim. The County shall provide, on a monthly basis, a statement of all such costs incurred in its response to or defense against such Claim during such month, together with reasonable documentation evidencing the costs shown on the statement, and the Sponsor shall pay the County within 30 days of receipt of such statement and documentation. However, the County is not required to provide any portions of such documentation which may be privileged or confidential to evidence the costs.

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

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

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any Claim, including, without limitation, copies of any citations,

orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a Claim.

(f) Notwithstanding anything in this Fee Agreement to the contrary, the Sponsor's obligation to indemnify and save any Indemnified Party harmless against and from any Claim, and to pay the costs, or reimburse the County for costs, arising from any such Claim shall at no time during the Fee Term exceed the savings theretofore received by the Sponsor as a result of the FILOT and Special Source Credit arrangements set forth herein.

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

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

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

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

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

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

**ARTICLE IX  
SPONSOR AFFILIATES**

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

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

**ARTICLE X  
MISCELLANEOUS**

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

**IF TO THE SPONSOR:**

Project Charlie Echo  
Attn: [●]  
[●]  
[●]

**WITH A COPY TO (does not constitute notice):**

Nexsen Pruet, LLC  
Attn: Tushar V. Chikhliker  
1230 Main Street, Suite 700  
Columbia, South Carolina 29201

**IF TO THE COUNTY:**

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

Columbia, South Carolina 29204

**WITH A COPY TO (does not constitute notice):**

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

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

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

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

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

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

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

**Section 10.8. Interpretation; Invalidity; Change in Laws.**

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

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

(c) The County agrees that in case the FILOT incentive described in this Fee Agreement is found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate in the County, the County agrees to negotiate with



the Sponsor to provide a special source revenue or infrastructure credit to the Sponsor (in addition to the Special Source Credits explicitly provided for above) to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

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

**Section 10.10. Termination; Termination by Sponsor.**

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

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

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

(d) Beginning with the tax year corresponding to the property tax year following the property tax year containing the Final Termination Date, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. Beginning with the tax year corresponding to the property tax year following the property tax year in which the Sponsor terminates this Fee Agreement with respect to all or any portion of the Project pursuant to this Section 10.10, the Sponsor shall no longer be obligated to make FILOT Payments under this Fee Agreement with respect to all or such portion of the Project.

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

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

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

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

*[Signature pages follow]*

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

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
County Council Chair  
Richland County, South Carolina

**ATTEST:**

By: \_\_\_\_\_  
Clerk to County Council  
Richland County, South Carolina

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

**PROJECT CHARLIE ECHO**

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

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

**EXHIBIT A**  
**REAL PROPERTY DESCRIPTION**

[To be inserted.]

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

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement, effective [●] (“Fee Agreement”), between Richland County, South Carolina (“County”) and a company identified for the time being as Project Charlie Echo (“Sponsor”).

**1. Joinder to Fee Agreement.**

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

**2. Capitalized Terms.**

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

**3. Representations of the Sponsor Affiliate.**

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

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

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

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

**4. Governing Law.**

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

**5. Notice.**

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

[\_\_\_\_\_]

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

\_\_\_\_\_, as a Sponsor Affiliate  
Date \_\_\_\_\_ Name of Entity \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

IN WITNESS WHEREOF, the undersigned hereby designates the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

PROJECT CHARLIE ECHO, as Sponsor

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

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

RICHLAND COUNTY, SOUTH CAROLINA

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

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

See attached.

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

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

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

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

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

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

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

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

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

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

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

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




RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA

  
Chair, Richland County Council

(SEAL)  
ATTEST:

  
Clerk to County Council

**EXHIBIT D (see Section 5.1)**  
**DESCRIPTION OF SPECIAL SOURCE CREDITS**

The Sponsor shall be entitled to receive, and the County shall provide, Special Source Credits against each FILOT Payment due from the Sponsor under this Fee Agreement for twelve (12) consecutive tax years, commencing with the tax year for which the initial FILOT Payment is due under this Fee Agreement (“*Credit Term*”), in an amount equal to sixty percent (60%) of each such FILOT Payment.

THE SPECIAL SOURCE CREDITS AUTHORIZED HEREIN SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY, BUT SHALL BE A LIMITED OBLIGATION OF THE COUNTY PAYABLE SOLELY FROM THE FILOT PAYMENTS RECEIVED BY THE COUNTY HEREUNDER WITH RESPECT TO THE PROJECT.

**EXHIBIT E (see Section 6.2)**  
**DESCRIPTION OF SPECIAL SOURCE CREDITS CLAW BACK**

**Repayment Amount = Total Special Source Credits Received x Claw Back Percentage**

**Claw Back Percentage = 100% - Overall Achievement Percentage**

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

**Investment Achievement Percentage = Actual Investment Achieved (based on highest level of Project investment within Investment Period) / Contract Minimum Investment Requirement [may not exceed 100%]**

**Jobs Achievement Percentage = Actual New, Full-Time Jobs Created (based on highest level of jobs created at the Project within Investment Period) / Contract Minimum Jobs Requirement [may not exceed 100%]**

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

*For example, and by way of example only, if the County granted \$[I] in Special Source Credits, and \$[D] is the highest level invested in the Project and [A] jobs is the highest level of jobs created within the Investment Period, the Repayment Amount would be calculated as follows:*

*Jobs Achievement Percentage = [A]/[Contract Minimum Jobs Requirement] = [C]%*

*Investment Achievement Percentage = \$[D]/\$[Contract Minimum Investment Requirement] = [F]%*

*Overall Achievement Percentage = ([C]% + [F]%) / 2 = [G]%*

*Claw Back Percentage = 100% - G% = H%*

*Repayment Amount = \$[I] x [H]% = \$[J]*

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

The Sponsor shall continue to be eligible for the Special Source Credits against each FILOT Payment due from the Sponsor for the remaining tax years of the Credit Term; provided, however, that in the event that determination of the Overall Achievement Percentage results in a positive percentage figure, the initial Special Source Credits percentage set forth in Exhibit D of this Fee Agreement (60%) shall be reduced for the remaining tax years of the Credit Term by a percentage equal to the Overall Achievement Percentage (i.e., for an Overall Achievement Percentage of 10%, a resulting prospective Special Source Credits percentage of 54%).

SOUTH CAROLINA

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RICHLAND COUNTY

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A RESOLUTION

**COMMITTING TO NEGOTIATE A FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT BETWEEN RICHLAND COUNTY AND SCOUT MOTORS INC., A COMPANY PREVIOUSLY IDENTIFIED AS PROJECT CONNECT; IDENTIFYING THE PROJECT; AND OTHER MATTERS RELATED THERETO**

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

WHEREAS, Scout Motors Inc., together with or by and through to-be-formed affiliates or subsidiaries (collectively, “Sponsor”), desires to invest capital in the County in order to establish a manufacturing facility in the County in the Blythewood Industrial Park (“Project”);

WHEREAS, the Project is anticipated to result in an investment of approximately \$2,000,000,000 in taxable real and personal property and the creation of approximately 4,000 new, full-time equivalent jobs; and

WHEREAS, as an inducement to the Sponsor to locate the Project in the County, the Sponsor has requested that the County negotiate an agreement (“Agreement”), which provides for, among other things, FILOT Payments with respect to the portion of the Project which constitutes economic development property, as defined in the Act.

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

**Section 1.** This Resolution is an inducement resolution for this Project for purposes of the Act.

**Section 2.** County Council commits to negotiate the Agreement, which provides for FILOT Payments with respect to the portion of the Project which constitutes economic development property. The further details of the FILOT Payments and the agreement will be prescribed by subsequent ordinance of the County to be adopted in accordance with South Carolina law and the rules and procedures of the County.

**Section 3.** County Council identifies and reflects the Project by this Resolution, therefore permitting expenditures made in connection with the Project before the date of this Resolution to qualify as economic development property, subject to the terms and conditions of the Agreement and the Act.

**Section 4.** This Resolution is effective after its approval by the County Council.

RESOLVED: March 21, 2023

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk to County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

# Richland County Council Request for Action

**Subject:**

Authorizing the transfer of certain real property owned by Richland County and located in the Northpoint Industrial Park to Project Osmium; and other matters related thereto

**Notes:**

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

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE TRANSFER OF CERTAIN REAL PROPERTY OWNED BY  
RICHLAND COUNTY AND LOCATED IN THE NORTHPOINT INDUSTRIAL  
PARK TO PROJECT OSMIUM; AND OTHER MATTERS RELATED THERETO**

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

WHEREAS, the County owns certain real property located in the Northpoint Industrial Park consisting of approximately 3.14 acres and being a portion of TMS No. R14900-01-02, as shown on the attached Exhibit A;

WHEREAS, as an incentive for the location of warehouse facility in the County by a company known to the County as Project Osmium (“Company”), the County desires to sell the Property to the Company; and

WHEREAS, the County desires to enter into a purchase agreement (“Agreement”), to set forth the terms and conditions of the sale of the Property by the County to the Company.

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

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

**Section 2. Approval of Sale of Property.** County Council approves the sale of the Property by the County and authorizes each of the County Council Chair, the County Administrator, and the Director of Economic Development to negotiate (including establishing the purchase price for the Property), execute and deliver the Agreement, the final form, terms and provisions of which shall be finally approved by the County Council Chair, the County Administrator or the Director of Economic Development, following receipt of advice from counsel to the County, with the execution of the Agreement by the County Council Chair, the County Administrator or the Director of Economic Development to constitute conclusive evidence of the final approval thereof.

**Section 3. Further Acts.** County Council authorizes each of the County Council Chair, the County Administrator, or the Director of Economic Development, following receipt of advice from counsel to the County, to take such further acts and negotiate, approve and execute whatever further instruments on behalf of the County, including a deed for the Property or other closing affidavits and certificates, as deemed necessary, desirable or appropriate to effect the transactions described in this Ordinance. Any actions taken in the name of the County prior to the effective date of this Ordinance with respect to the sale of the Property are expressly ratified and confirmed.

**Section 4. General Repealer.** Any ordinance, resolution, or other order of County Council, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 5. Effectiveness.** This Ordinance is effective after third reading and a public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

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Chairman of County Council

(SEAL)  
ATTEST:

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Clerk to County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

READINGS:

First Reading:        March 21, 2023  
Second Reading:  
Public Hearing:  
Third Reading:





## Richland County Council Request for Action

**Subject:**

Airport Commission – One (1) Vacancy (Applicant must reside in the Rosewood, Shandon, or Hollywood-Rose Wales Garden neighborhoods)

**Notes:**

March 7, 2023 – The Rules and Appointments committee recommended appointing Mr. Frank Caggiano.

## Richland County Council Request for Action

**Subject:**

Community Relations Council – Three (3) Vacancies

**Notes:**

March 7, 2023 – The Rules and Appointments Committee recommended appointing Ms. Kizzie Smalls and Ms. Shandelle Simmons. The remaining vacancy will be re-advertised.

## Richland County Council Request for Action

**Subject:**

Employee Grievance - Two (2) Vacancies (Must be a Richland County Government employee)

**Notes:**

March 7, 2023 – The Rules and Appointments Committee recommended appointing Ms. Christa Sheehan and re-advertise for the remaining vacancy.

## Richland County Council Request for Action

**Subject:**

Planning Commission - One (1) Vacancy

**Notes:**

March 7, 2023 – The Rules and Appointments Committee recommended appointing Mr. Bryan Grady.

## Richland County Council Request for Action

**Subject:**

Riverbanks Park Commission - One (1) Vacancy

**Notes:**

March 7, 2023 – The Rules and Appointments Committee recommended reappointing Mr. Robert Davidson.

Richland County Council will accept applications through

**March 24, 2023 at 5:00 pm**

**For Service on the following Boards and/or Commissions**

1. Accommodations Tax Committee – Six (6) Vacancies (**ONE** applicant must have a background in the lodging industry, **THREE** applicants must have a background in the hospitality industry, **ONE** applicant must have a cultural background and **ONE** applicant will fill an At-large seat)
2. Board of Zoning Appeals – Four (4) Vacancies
3. Building Codes Board of Appeals – Nine (9) Vacancies (**ONE** applicant must be from the Architecture Industry, **ONE** from the Gas Industry, **ONE** from the Building Industry, **ONE** from the Contracting Industry, **ONE** applicant must be from the Plumbing Industry, **ONE** applicant must be from the Electrical Industry, **ONE** applicant must be from the Engineering Industry and **TWO** from Fire Industry as alternates)
4. Business Service Center Appeals Board – Three (3) Vacancies (**ONE** applicant must be from the Business Industry and **TWO** applicants must be CPAs)
5. Community Relations Council – One (1) Vacancy
6. Employee Grievance Committee – One (1) Vacancy
7. Hospitality Tax Committee – Three (3) Vacancies (**TWO** applicants must be from the Restaurant Industry)
8. Midlands Workforce Development Board – Four (4) Vacancies (Applicants must be from the Private Sector)
9. Transportation Penny Advisory Committee (TPAC) – Four (4) Vacancies

**Appointments will tentatively begin on May 2, 2023**

Please visit [www.richlandcountysc.gov](http://www.richlandcountysc.gov) to submit an online application for the board, commission or committee you are interested in serving on. Once you have submitted the application, the Clerk of Council's Office will contact you to schedule a brief interview with the Rules and Appointments Committee.

You are **strongly encouraged to speak with your Council District Representative** and to visit [www.richlandcountysc.gov](http://www.richlandcountysc.gov) to learn more about the board, commission or committee you are interested in serving on. If you need additional information, please contact the Richland County Clerk to Council Office at (803) 576-2060 or by e-mail at [rccoco@richlandcountysc.gov](mailto:rccoco@richlandcountysc.gov).





## **REQUEST OF ACTION**

**Subject:** FY23 - District 7 Hospitality Tax Allocations

### **A. Purpose**

County Council is being requested to approve a total allocation of **\$12,500** for District 7.

### **B. Background / Discussion**

For the 2022 - 2023 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

**Motion List (3<sup>rd</sup> reading) for FY17:** Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

**Motion List (3<sup>rd</sup> reading) for FY23, Regular Council Meeting – June 7, 2022:** Establish Hospitality Tax discretionary accounts for each district in FY23 at the amount of \$82,425. Move that all unallocated district specific H-Tax funding for FY21-22 be carried over and added to any additional funding for FY22-23.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY23 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 7 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$ 82,425
FY2022 Remaining	\$ 60,900
American Heart Association	\$ 7,500
Talented Tenth SC	\$ 5,000
<b>Total Allocation</b>	<b>\$ 12,500</b>
<b>Remaining FY2023 Balance</b>	<b>\$ 91,825</b>

**C. Legislative / Chronological History**

- 3<sup>rd</sup> Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3<sup>rd</sup> Reading of the Budget FY19- June 21, 2018
- 3<sup>rd</sup> Reading of the Budget FY20- June 10, 2019
- 3<sup>rd</sup> Reading of the Budget FY21- June 11, 2020
- 3<sup>rd</sup> Reading of the Budget FY22- June 10, 2021
- 3<sup>rd</sup> Reading of the Budget FY23- June 7, 2022

**D. Alternatives**

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

**E. Final Recommendation**

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.



## **REQUEST OF ACTION**

**Subject:** FY23 - District 8 Hospitality Tax Allocations

### **A. Purpose**

County Council is being requested to approve a total allocation of **\$5,000** for District 8.

### **B. Background / Discussion**

For the 2022 - 2023 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

**Motion List (3<sup>rd</sup> reading) for FY17:** Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

**Motion List (3<sup>rd</sup> reading) for FY23, Regular Council Meeting – June 7, 2022:** Establish Hospitality Tax discretionary accounts for each district in FY23 at the amount of \$82,425. Move that all unallocated district specific H-Tax funding for FY21-22 be carried over and added to any additional funding for FY22-23.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY23 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 8 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding				\$ 82,425
FY2022 Remaining				\$ 85,200
	Columbia Association	Music	Festival	\$ 5,000
<b>Total Allocation</b>				\$ 5,000
<b>Remaining FY2023 Balance</b>				\$145,125

**C. Legislative / Chronological History**

- 3<sup>rd</sup> Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3<sup>rd</sup> Reading of the Budget FY19- June 21, 2018
- 3<sup>rd</sup> Reading of the Budget FY20- June 10, 2019
- 3<sup>rd</sup> Reading of the Budget FY21- June 11, 2020
- 3<sup>rd</sup> Reading of the Budget FY22- June 10, 2021
- 3<sup>rd</sup> Reading of the Budget FY23- June 7, 2022

**D. Alternatives**

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

**E. Final Recommendation**

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.