

RICHLAND COUNTY

REGULAR SESSION

AGENDA



TUESDAY OCTOBER 17, 2023

6:00 PM

COUNCIL CHAMBERS

Richland County Council 2023



Derrek Pugh
District 2



Jason Branham
District 1



Gretchen Barron
District 7



Yvonne McBride
District 3



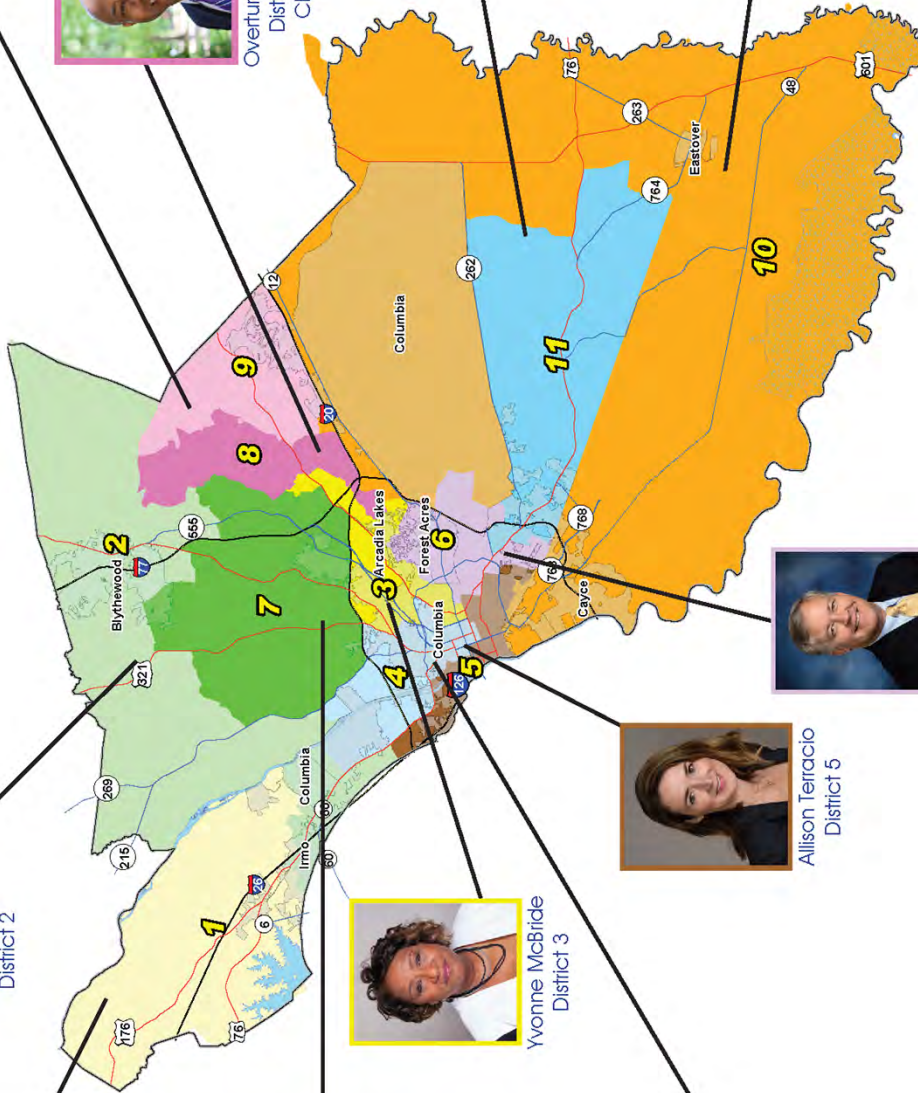
Paul Livingston
District 4



Allison Terracio
District 5



Don Weaver
District 6



Overture Walker
District 8
Chair



Chakisse Newton
District 11



Cheryl English
District 10



Jessica Mackey
District 9
Vice Chair



**Richland County
Regular Session**

AGENDA

October 17, 2023 - 6:00 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 Derrek Pugh
3. **PLEDGE OF ALLEGIANCE**

The Honorable Derrek Pugh
4. **PRESENTATION OF RESOLUTIONS**
 - a. Recognizing the Life of Richland County Deputy Jacob "Jake" Salrin

The Honorable Jason Branham
The Honorable Derrek Pugh
The Honorable Yvonne McBride
The Honorable Paul Livingston
The Honorable Allison Terracio
The Honorable Don Weaver
The Honorable Gretchen Barron
The Honorable Overture Walker
The Honorable Jesica Mackey
The Honorable Cheryl English
The Honorable Chakisse Newton
5. **PRESENTATION OF PROCLAMATIONS**
 - a. Recognizing the Junior League of Columbia on their Centennial Anniversary

The Honorable Gretchen Barron
6. **APPROVAL OF MINUTES**

The Honorable Overture Walker

 - a. Regular Session: October 3, 2023 [\[PAGES 8-19\]](#)
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

- a. Letter of support for the University of South Carolina purchase of real property from the Development Foundation, Richland County Tax Map Parcel Number R11201-02-10; R11100-01-04; R11100-01-15 and R11100-01-10 [PAGE 20]
- b. County Attorney's Contract
- c. Potential acquisition of a workforce training facility. Pursuant to Section 30-4-7(2) and (5)

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 [PAGE 21]

Leonardo Brown,
County Administrator

- a. Updates for Consideration:
 - 1. Grievance Process [PAGES 22-25]
 - b. Administrator's Nomination: Items in this section require action that may prejudice the County's interest in a discernable way (i.e. time-sensitive, exigent, or of immediate importance)
 - 1. Community Planning & Development – Conservation Division - Mitigation Bank Credit Sales – Chester Village [PAGES 26-37]

12. REPORT OF THE CLERK OF COUNCIL

Anette Kirylo,
Clerk of Council

13. REPORT OF THE CHAIR

The Honorable Overture Walker

14. APPROVAL OF CONSENT ITEMS

The Honorable Overture Walker

- a. Case # 23-023MA
Kevin Steelman
M-1 to RS-LD (21.98)
111 Pine Wedge Drive
TMS # R17700-01-94 & R17700-01-14 [THIRD READING]
[PAGES 38-39]

15. 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 Vista Depot Holding, LLC, among other of its affiliates, to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits, and other related matters [\[PAGES 40-77\]](#)

16. SECOND READING ITEMS

The Honorable Overture Walker

- a. Authorizing the issuance of General Obligation Bonds in one or more series, tax-exempt or taxable, in an amount not to exceed Ninety-Three Million Dollars (\$93,000,000), to fund the acquisition, construction, equipping, rehabilitation, and improvement of certain capital projects and to refund all or a portion of certain of the County's outstanding General Obligation Bonds; authorizing the County Administrator to prescribe the details of the issuance and sale of the bonds and the form and details of the bonds; providing for the disposition of the proceeds of the bonds and the payment of the bonds; and other related matters [\[PAGES 78-114\]](#)
- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Truck to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [\[PAGES 115-148\]](#)

17. REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

The Honorable Paul Livingston

- a. Requiring certain accountability practices concerning Economic Development projects in Richland County [\[PAGES 149-150\]](#)
- 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 identified for the time being as Project Ore; and other related matters [FIRST READING] [\[PAGES 151-174\]](#)

18. REPORT OF RULES & APPOINTMENTS COMMITTEE

The Honorable Gretchen Barron

- a. NOTIFICATION OF APPOINTMENTS

1. Central Midlands Council of Governments - One (1) Vacancy
 - a. Kimberley Brown
2. Transportation Penny Advisory Committee - Four (4) Vacancies
 - a. Ashton Williams

19. OTHER ITEMS

The Honorable Overture Walker

- a. A Resolution to appoint and commission Kimberly A. Bryant as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County **[PAGE 175]**
- b. A Resolution to appoint and commission Daniel F. Leyden as a Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County **[PAGE 176]**
- c. A Resolution to appoint and commission Donche Richardson as Code Enforcement Officer for the proper security, general welfare, and convenience of Richland County **[PAGE 177]**

20. 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.

21. MOTION PERIOD

The Honorable Overture Walker

22. 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
October 3, 2023 – 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

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

NOT PRESENT: Allison Terracio

OTHERS PRESENT: Michelle Onley, Aric Jensen, Patrick Wright, Leonardo Brown, Anette Kirylo, Chelsea Bennett, Lori Thomas, Stacey Hamm, Thomas Gilbert, Sarah Harris, Geo Price, Susan O’Cain, Judy Carter, Dale Welch, Sandra Haynes, Ashiya Myers, Erica Wade, Kyle Holsclaw, Angela Weathersby, Wayne Thornley, Andrew Haworth, Quinton Epps, Chanda Cooper, Michael Byrd, Michael Maloney, Brittney Hoyle-Terry, and Venyke Harley

1. **CALL TO ORDER** – Chairman Overture Walker called the meeting to order at approximately 6:00 PM.
Mr. Walker indicated Ms. Terracio would not be attending tonight’s meeting in person due to a personal matter.
Those in attendance observed a moment of silence in honor of fallen Richland County Deputy Jacob Eric Salrin.
2. **INVOCATION** – The Invocation was led by the Honorable Derrek Pugh.
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Derrek Pugh.
4. **PRESENTATION OF PROCLAMATIONS**
 - a. A Proclamation recognizing Reconciliation Ministries and declaring October as National Substance Abuse Prevention Month – Mr. Weaver presented a proclamation to the Executive Director of Reconciliation Ministries recognizing October as National Substance Abuse Prevention Month.
5. **APPROVAL OF MINUTES**
 - a. Regular Session: September 19, 2023 – Ms. Mackey moved to approve the minutes as distributed, seconded by Mr. Weaver.
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton
The vote in favor was unanimous.
 - b. Zoning Public Hearing: September 26, 2023 – Ms. Mackey moved to approve the minutes as distributed, seconded by Mr. Weaver.
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton
The vote in favor was unanimous.
6. **ADOPTION OF AGENDA** – The County Attorney, Patrick Wright, noted Item 7(b): County Attorney’s Contract should be pursuant to S.C. Code Sect. 30-4-70(a)(1) instead of S.C. Code Sect. 30-4-70(a)(2) and (5).
Ms. Barron moved to adopt the agenda as amended, seconded by Ms. Mackey.
In Favor: Branham, Pugh, McBride, Livingston, Terracio, Weaver, Barron, Walker, Mackey, English, and Newton
The vote in favor was unanimous.

7. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION (Pursuant to SC Code 30-4-70)** – Mr. Patrick Wright, County Attorney, indicated the following item qualifies for Executive Session under South Carolina Code section 30-4-70:
- a. Legal options regarding funding for capital projects and transportation projects [Pursuant to S. C. Code Sect. 30-4-70(a)(2) and (5)]
 - b. County Attorney’s Contract [Pursuant to S. C. Code Sect. 30-4-70(a)(1)]
 - c. Scout Motors Legal Update [Pursuant to S. C. Code Sect. 30-4-70(a)(2) and (5)]
 - d. Property Inquiry – 1430 Colonial Life Blvd., also known as the old Haverty’s property [Pursuant to S. C. Code Sect. 30-4-70(a)(2) and (5)]
 - e. Property Inquiry – 1221 Gregg Street, Columbia, SC 29201, TMS # R11406-16-16 and TMS # R11406-16-17 [Pursuant to S. C. Code Sect. 30-4-70(a)(2) and (5)]

Mr. Pugh moved to go into Executive Session with respect to Items 7(a) and 7(c), seconded by Ms. Mackey.

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 6:19 PM
and came out at approximately 7:34 PM***

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

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

Not Present: Terracio

The vote in favor was unanimous.

8. **CITIZENS’ INPUT**

- a. For Items on the Agenda Not Requiring a Public Hearing – Ms. Mackey noted no one signed up on the sign-in sheet, but some individuals who would like to speak arrived after the sign-in sheet was taken up.

Ms. Onley indicated the individuals would like to speak regarding concerns in the Olympia Community.

Assistant County Administrator Aric Jensen further clarified what the individuals wish to speak on.

POINT OF ORDER – Ms. Newton inquired if it will require a vote by Council to allow the individuals to speak.

Mr. Wright indicated the Chair could allow an individual to sign up to speak without taking action to suspend the rules.

Erring on the side of caution, Ms. McBride moved to suspend the rules to allow the individuals to individuals to speak, seconded by Mr. Weaver.

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

Opposed: Branham

Not Present: Terracio

The vote was in favor.

- 1. Sherry Jaco, 1166 Olympia Avenue, Columbia, SC 29201
- 2. Theresa Hodge, 1209 Whitney Street, Columbia, SC 29201
- 3. Jason Jaco, 931 Texas Street, Columbia, SC 29201
- 4. Joby Chasteen, 1027 Hamrick Street, Columbia, SC 29201
- 5. Joe Wider, 224 Williams Street, Columbia, SC 29201
- 6. Vi Hendley, 106 Alabama Street, Columbia, SC 29201

9. **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.)

- 1. Eileen DuBose, 7262 Sunview Drive, Columbia, 29209 – Pinewood Lake Park

10. **REPORT OF THE COUNTY ADMINISTRATOR**

a. Updates for Consideration:

1. *Soil & Water Conservation District Annual Report* – Mr. Kenneth Mullis, Soil & Water Conservation District Chairperson, presented the annual report to Council.

b. Administrator's Nomination: Items in this section require action that may prejudice the County's interest in a discernable way (i.e. time-sensitive, exigent, or of immediate importance)

1. *Community Planning & Development – Conservation Division – Blossom Street Bridge Replacement Mitigation Credit Sales* – County Administrator Leonardo Brown stated staff recommended approval of the South Carolina Department of Transportation (SCDOT) request to purchase one (1) wetland credit at the rate of \$20,000 for the Blossom Street Bridge replacement.

Mr. Livingston moved to approve this item, seconded by Mr. Pugh.

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

Not Present: Terracio

The vote in favor was unanimous.

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

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

Not Present: Terracio

The motion for reconsideration failed.

2. *Office of the County Administrator – Ordinance authorizing the issuance of General Obligation Bonds* – Mr. Brown stated staff recommends the approval of an ordinance authorizing the issuance of general obligation bonds to fund the acquisition, construction, equipping, rehabilitation, and improvement of certain capital project and to refund all or a portion of certain of the County's outstanding general obligation bonds. The purpose of this ordinance is to authorize the issuance of general obligation bonds for new funds to provide funding for capital projects as outlined on p. 50 of the agenda and approved by Council on September 12, 2023. The ordinance is structured such that any modifications or changes in projects will allow for funds to be redirected to other capital projects with Council's approval.

Mr. Weaver requested a breakdown of the \$25M set aside for the Alvin S. Glenn Detention Center.

Ms. Lori Thomas, Assistant County Administrator, indicated the largest components are broken down on p. 75 of the agenda.

Mr. Weaver stated for clarification, the debt capacity grows at a rate of \$8M-\$10M per year.

Ms. Thomas responded in the affirmative. She noted only \$71M of the \$93M would be new funding. The \$22M has the capacity to be refunded, which would further increase our capacity to bond. We will wait closer to the time the bonds are sold to assess the market's volatility.

Mr. Livingston indicated he thought we had the funds for the Department of Social Services.

Ms. Thomas stated there is \$17,480,389 in ARPA funding allocated toward the total cost of \$49,173,881 for the Family Services Center. We will be bonding the difference.

Ms. Newton inquired if additional ARPA funds become available for the Family Services Center, would that free up bond funds?

Ms. Thomas responded in the affirmative.

Ms. Mackey moved to approve 1st Reading of the ordinance, seconded by Ms. Newton.

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

Opposed: Weaver

Not Present:

The vote was in favor.

11. **REPORT OF THE CLERK OF COUNCIL** – Ms. Onley reminded Council regarding the following events:
- a. 2023 Annual Planning Conference, Saturday, October 7, 2023, 11:00 AM–2:00 PM, Medallion Conference Center, 7309 Garners Ferry Road
 - b. 2023 SCAC Institute of Government and Fall Advocacy Meeting, October 18-19, 2023, Embassy Suites, 200 Stoneridge Drive
 - c. Open Enrollment, October 1-31, 2023
12. **REPORT OF THE CHAIR** – No report was given.
13. **OPEN/CLOSE PUBLIC HEARING**
- a. An Ordinance affirming the provisions of Ordinance No. 058-16HR, related to the Office of Small Business Opportunity – No one signed up to speak.
14. **APPROVAL OF CONSENT ITEMS**
- a. Case #23-023MA, Kevin Steelman, M-1 to RS-LD (21.98 Acres), 111 Pine Wedge Drive, TMS # R17700-01-94 & R17700-0114 [SECOND READING]
 - b. Department of Public Works – Solid Waste & Recycling – Landfill Capital Expansion

Ms. Newton moved to approve Items 14(a) and 14(b), seconded by Mr. Pugh.

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

Not Present: Terracio

The vote in favor was unanimous.
 - c. County Administration: Convention Center – Tourism Development Fee – Ms. Barron moved to approve this item, seconded by Mr. Livingston.

Mr. Branham noted it was his understanding the City of Columbia, Lexington County, and Richland County contributed over a 20-year period to pay off the construction bond on the Convention Center.

Ms. Thomas responded that was correct.

Mr. Branham inquired if the bond was paid in full in the last 12 months.

Ms. Thomas responded in the affirmative.

Mr. Branham inquired if the tourism development fee had been funding the debt service and operational and marketing expenses.

Ms. Thomas replied that was her understanding.

For clarification, Mr. Branham stated the request before Council is for an additional allocation to go toward operations and marketing.

Ms. Thomas stated the portion the County paid was more in line with what would have been considered debt service. We paid the funds to the City of Columbia, and they remitted them to the Convention Center. What is being requested now is for operations.

Mr. Branham inquired as to the dollar amount being requested.

Ms. Thomas indicated the request was for 50% of the tourism development fee (i.e., accommodations tax). Currently, that equates to approximately \$700,000, but, of course, that amount varies.

Mr. Branham requested to affirm whether the motion was for the County to fund at that level for one year or in perpetuity.

Mr. Wright stated his concern with funding the Convention Center in perpetuity is that Council is not supposed to bind future Councils. Generally, we renew funding annually, but no more than every four years.

Mr. Livingston acknowledged our Convention Center operates at a lesser rate than the Greenville and Charleston convention centers.

Ms. Barron inquired what happens to the funds if we do not approve the Convention Center’s request.

Ms. Thomas replied the funds would be held in the Accommodations Tax account. She noted we know the amount of funds available this fiscal year, but moving forward, a binding of 50% may be significantly more money.

Ms. Barron stated if we provide the Convention Center the 50%, the remaining 50% would stay in the Accommodations Tax account. At some point, Council would have to determine what they wish to do with the remaining 50%.

Ms. Thomas noted the other question is how long we would want to provide the 50% to the Convention Center.

Ms. Barron expressed that when these funds were set aside, it was specifically for the Convention Center. Noting that the Convention Center has some major needs for expansion, she would like us to keep in mind that this may be a good way for us to set aside some additional funding to support the Convention Center for its future needs.

Mr. Branham inquired if the recommendation by the committee was to provide funding for one year.

Ms. Mackey responded the motion was not specifically for one year.

Ms. Mackey made a substitute motion to approve the Convention Center's request and review the request on an annual basis moving forward, seconded by Ms. Barron.

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

Opposed: Livingston

Not Present: Terracio

The vote was in favor.

Ms. Barron moved to reconsider Items 14(b) and 14(c), seconded by Ms. Mackey.

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

Not Present: Terracio

The motion for reconsideration failed.

15. **THIRD READING ITEM**

- a. An Ordinance Authorizing the levying of ad valorem property taxes which, together with the prior year's carryover and other State levies and any additional amount appropriated by the Richland County Council prior to July 1, 2023, will provide sufficient revenues for the operation of Richland County Government during the period from July 1, 2023, through June 30, 2024 – Mr. Pugh moved to approve this item, seconded by Ms. Mackey.

Mr. Weaver stated, for clarification, that if this item is approved, there will not be a tax increase.

Mr. Paul Brawley, the Auditor, responded there would not be a tax increase.

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

Opposed: Branham

Not Present: Terracio

The vote was in favor.

Ms. Barron moved to reconsider this item, seconded by Mr. Pugh.

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

Not Present: Terracio

The motion for reconsideration failed.

- b. An Ordinance of the County Council of Richland County, South Carolina, revising the zoning map of unincorporated Richland County, South Carolina, to change the zoning designation for all real property located in the unincorporated areas of Richland County, as described herein; and providing for severability and an effective date – Mr. Branham moved to approve this item with an effective date of February 14, 2024, seconded by Mr. Pugh.

Ms. Newton expressed that once there is an effective date, any resident who was previously zoned “Rural” would have up to a year where the County would waive their fee to have their zoning reconsidered.

Mr. Jensen indicated that would be a part of the proposed text amendments that Council is being requested to adopt. Once the proposed text amendments have received 1st Reading, he will distribute the draft language to Council for review.

Mr. Livingston inquired if February 14, 2024, is a reasonable effective date.

Mr. Jensen responded in the affirmative. He indicated that 90 days is a reasonable time to mount a media/public education campaign.

Ms. Mackey inquired if a moratorium on zoning requests would occur during this 90-day period.

Mr. Wright declared during the 90 days; applications would have to be under the new Land Development Code.

Ms. Barron reiterated that the public education campaign is indeed an educational campaign. She noted there are citizens and residents who are fully engaged in the process and probably know it better than Council and staff. However, there is still a large number of people who do not have a clear understanding of the Land Development Code.

Mr. Walker inquired if staff is certain the 90-day period is sufficient.

Mr. Jensen responded staff will ensure they meet the 90-day timeframe. If Council granted an additional two weeks, staff would also accept it.

Mr. Walker inquired if staff would like the additional two weeks.

Mr. Jensen stated that staff would accept the additional two weeks.

Mr. Branham amended his motion to make the effective date March 1, 2024.

Ms. Newton requested an updated timeline be forwarded to Councilmembers.

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

Opposed: Barron

Not Present: Terracio

The vote was in favor.

Mr. Pugh moved to reconsider this item, seconded by Mr. Branham.

In Favor: Barron

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

Not Present: Terracio

The motion for reconsideration failed.

- c. An Ordinance affirming the provisions of Ordinance No. 058-16HR, related to the Office of Small Business Opportunity – Mr. Pugh moved to approve this item, seconded by Ms. Newton.

Ms. McBride inquired if there would be an elevation in salaries and/or staffing for this department.

Mr. Brown expressed there will be adjustments in the current fiscal year to accommodate the changes. Next fiscal year, it will appear as a “new” position, but it will be based on this ordinance change.

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

Not Present: Terracio

The vote in favor was unanimous.

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

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

Not Present: Terracio

The motion for reconsideration failed.

16. **FIRST READING ITEMS**

- a. An Ordinance to adopt the text amendment recommendations of the Richland County Planning Commission to the 2021 Land Development Code, which will regulate development in the unincorporated areas of Richland County [BY TITLE ONLY] – Mr. Branham moved to approve this item, seconded by Ms. Mackey.

Ms. Barron stated she would be voting “no” on this item because some things were previously stated regarding revisions/modifications. When she sees those revisions/modifications, she will then be able to support this item.

Mr. Branham amended the effective date on this item to March 1, 2024, seconded by Ms. Barron.

Mr. Branham declared this process has been an example of government responding to the public. The process started with Council deciding approximately two years ago to send this back to the Planning Commission for further review and incorporation of public input.

Mr. Weaver stated he could not vote in favor of this. He views this as a government taking of property without compensation.

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

Opposed: Weaver and Barron

Not Present: Terracio

The vote was in favor.

17. **REPORT OF THE ADMINISTRATION AND FINANCE COMMITTEE**

- a. Approval of EdVenture Children’s Museum Hospitality Tax request for facility improvements and enhancements to improve safety and attract new visitors [Motion by MACKEY – August 29, 2023] – Ms. Mackey stated the committee forwarded this item to Council without a recommendation.

Ms. Mackey pointed out that a full request and renderings of the proposed exhibit and safety features are included in the agenda packet. She noted EdVenture has a new Executive Director who came on within the last year and has worked hard to revitalize EdVenture. It is a great attraction for the area, especially for families with small children.

Ms. Mackey moved to approve the use of \$1.75M in Hospitality Tax funds, seconded by Ms. English.

Ms. English thanked EdVenture for their inclusion of children with developmental disabilities and their families.

Ms. Newton expressed her desire to have a more fulsome discussion about what we do with the remainder of the Hospitality Tax fund so we can look at making a significant investment that will move the County forward.

Ms. McBride noted she has been an avid supporter of EdVenture. She stated her concern is there is a funding process for initiatives, and this request comes outside of the established procedure. She expressed that she is torn about what is fair and transparent. She hopes the County will find a better process or procedure to ensure that everyone has the opportunity to apply for funding.

Ms. Mackey maintained she is also concerned about process, which is why she created the Community Impact Grants Committee. We have shown transparency in our process and how we fund non-profits. As much as she is committed to the process, she is committed to the facts. The fact is there is no process in place that states to request Hospitality Tax funds; you have to do it in the budget process. She noted that many of our attractions lie within downtown Columbia, which attracts visitors to the County. Our job is to support those attractions to bring revenue to the County. She acknowledged that \$1.75M is a lot of money, but she believes that EdVenture is coming with a reasonable request to improve safety features and bring in a new exhibit to attract visitors. She is open to developing a process if that is what the body desires, but we cannot hold EdVenture to a standard that does not exist.

Ms. Newton wanted to ensure that the constituents understand there are State statutes we must follow regarding what is eligible for Hospitality Tax funds. Council vets projects to ensure they compile.

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

Recuse: Pugh (due to the group he is doing business with is in talks with EdVenture)

Not Present: Terracio

Ms. Mackey moved to reconsider, seconded by Ms. Barron.

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

Recuse: Pugh (due to the group he is doing business with is in talks with EdVenture)

Not Present: Terracio

The motion for reconsideration failed.

- b. Approval of Paid Parental Leave Policy [Motion by MACKEY – April 18, 2023] – Ms. Mackey stated the committee recommended approval of the paid parental leave policy. The committee proposed to amend the policy to include additional language that addresses paid leave for an employee experiencing a stillbirth and to amend the language regarding placement of a foster child as follows: “Eligible employees will receive a maximum of six weeks of paid parental leave for the placement of a foster child twelve months or younger.” The policy will go into effect on January 1, 2024, for all Richland County employees.

Ms. Venyke Harley, Human Resources Director, stated this policy aligns with operational excellence. It will be a great recruiting tool for the County. One of the policy's benefits is giving the employees financial protection when they welcome a child. The policy also includes the co-parent with the same leave opportunity as the birthing parent.

Mr. Livingston inquired about how our policy is consistent with the State policy.

Ms. Harley responded that the County's policy is consistent with the State's. One benefit we have included that the State does not is that the State only allows two weeks for the co-parent. The State also does not address stillbirth. She noted we will be doing additional research with Legal regarding the language for the stillbirth.

Ms. Mackey stated there are 46 counties within the State, and by approving this policy, Richland County will become the 2nd county to provide employees paid parental leave.

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

The vote in favor was unanimous.

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

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

The motion for reconsideration failed.

- c. Property Inquiry – 1430 Colonial Life Blvd., also known as the old Haverty's property
d. Property Inquiry – 1221 Gregg Street, Columbia, SC 29201

Ms. Mackey requested that the County Administrator or Attorney speak to Items 17(c) and 17(d). These items were discussed in Executive Session at the committee meeting, and she does not know if they need to be addressed in Executive Session at tonight's meeting.

Mr. Wright declared there is some private information the general public would not be privy to.

Mr. Brown stated Council should have received information regarding the acquisition of properties, how much the County purchased them for, and the private parties' request to purchase the properties. This particular action would follow a pattern where the Administrator would be authorized to enter into negotiations and bring back information to Council before any agreements are entered into to dispose of the property.

Mr. Walker inquired if any action was needed on these items.

Mr. Brown responded action would be needed if Council wanted the County Administrator to move forward with negotiations.

Mr. Livingston moved to authorize the Administrator to enter into negotiations in reference to Items 17(c) and 17(d), seconded by Mr. Weaver.

Ms. Barron inquired how these items came to the committee for consideration.

Mr. Brown indicated he received a request of interest on both properties. He informed Council of the request under the Report of the County Administrator. A motion was made by the respective

Councilmember representing the area where the property is located to forward the request to the Administration and Finance Committee. The recommendation from the committee is before Council tonight.

In Favor: Branham, Pugh, Livingston, Weaver, and Mackey

Opposed: McBride, Terracio, Barron, Walker, English, and Newton

The motion failed.

Ms. Newton stated for clarification because the items were voted down, we cannot discuss them.

Mr. Wright responded the items can be discussed in Executive Session.

Ms. Newton made a motion to reconsider Items 17(c) and 17(d), seconded by Ms. Barron.

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

The vote for reconsideration was unanimous.

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

- a. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Truck to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; 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. Committing to negotiate a fee-in-lieu of ad valorem taxes agreement between Richland County and Project Truck; identifying the project; and other matters related thereto – 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.

19. **REPORT OF THE RULES AND APPOINTMENTS COMMITTEE**

a. NOTIFICATION OF APPOINTMENTS

- I. Board of Zoning Appeals – One (1) Vacancy – Ms. Barron stated the committee recommended appointing Mr. DeAnta Reese.

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

The vote in favor was unanimous.

- II. Planning Commission – Two (2) Vacancies – Ms. Barron stated the committee recommended re-appointing Mr. Christopher Yonke and appointing Mr. Mark Duffy.

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

The vote in favor was unanimous.

POINT OF PERSONAL PRIVILEGE – Mr. Branham recognized that the Planning Commission Chair, Christopher Yonke, was in the audience and thanked him for his continued service.

Ms. Barron moved to reconsider Items 19(a)(I) and 19(a)(II), seconded by Ms. Newton.

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

The motion for reconsideration failed.

20. **REPORT OF THE CORONAVIRUS AD HOC COMMITTEE**

- a. Small Business Category Recommendations – Ms. Barron reminded this body and the general public this category is a part of the \$16M Council set aside in ARPA funds to award local non-profits and businesses. With that, staff and the third-party vendor spent a lot of time in this category. There was an overwhelming response; however, when the third party reviewed the applications, most did not qualify. We requested staff take a second look and match up documentation through the Business Service Center. To qualify for this category, the small business had to show a loss due to COVID-19.

Ms. Barron stated the committee recommended awarding up to \$25,000 to Caughman and Co., LLC and Thrift Store of Greenville, Inc. (dba Sunshine Thrift Store) following their desk review.

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

Opposed: McBride and Mackey

The vote was in favor.

Ms. Barron moved to reconsider this item, seconded by Mr. Pugh.

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

Not Present: Branham

The motion for reconsideration failed.

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

- a. Excess Mitigation Bank Credit Sales Process – Mr. Walker stated the committee recommends changing the process whereby excess mitigation sales can be presented for approval to Council through the Administrator’s Nomination process rather than through the Transportation Ad Hoc Committee. Staff informed us the current two-step process puts us at a competitive disadvantage.

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

Not Present: Terracio

The vote in favor was unanimous.

- b. Transportation Facilities Plan – Mr. Walker stated the committee recommended awarding the professional services contract to Stantec Consulting Services, Inc. based on the qualifications of the team and proposal received in the amount of \$110,000, to include a contingency of 20% for a total approved amount of \$132,000.

Mr. Walker noted that hiring a consultant will allow Council to assess and identify our transportation needs countywide.

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

The vote in favor was unanimous.

- c. Award of Construction – Alpine Road Resurfacing and Sidewalk – Mr. Walker stated the committee recommended awarding the contract to Palmetto Corp of Conway based on the bid received in the amount of \$3,322,553.52, to include a 10% construction contingency, for a total approved amount of \$3,654,808.87.

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

The vote in favor was unanimous.

Mr. Walker moved to reconsider Items 21(a)-21(c), seconded by Ms. Barron.

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

The motion for reconsideration failed.

22. **OTHER ITEMS**

- a. FY24 – District 4 Hospitality Tax Allocations: (Columbia Music Fest Association - \$5,000; Communities in Schools of SC - \$5,000)
- b. FY24 – District 6 Hospitality Tax Allocations: (Communities in Schools of SC - \$5,000)

- c. FY24 – District 2 Hospitality Tax Allocations (Blythewood Historical Society - \$20,000; Big Red Barn Retreat – Fall Jam - \$8,000; Range Fore Hope Foundation - \$10,000)

Ms. Newton moved to approve Items 22(a)-22(c), seconded by Mr. Pugh.

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 22(a)-22(c), seconded by Ms. Newton.

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

Not Present: Terracio

The motion for reconsideration failed.

- d. Authorizing County staff to prepare for a Capital Project Sales Tax Referendum expected to be held at the 2024 General Election pursuant to South Carolina Code Annotated Section 4-10-300, et seq.; to provide for the appointment, composition, powers and obligations of the commission; and to provide for other related matters – Mr. Weaver moved to approve this item, seconded by Ms. English.

In Favor: Weaver

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

Not Present: Terracio

The motion for approval failed.

- e. Authorizing County staff to prepare for a Transportation Sales Tax Referendum expected to be held at the 2024 General Election pursuant to Title 4, Chapter 37 of the Code of Laws of South Carolina, 1976, as amended; to provide for the establishment of an ad hoc committee; and to provide for other related matters – Ms. Barron moved to approve this item, seconded by Ms. English.

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

Opposed: Branham and Terracio

The vote was in favor.

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

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

The motion for reconsideration failed.

23. **EXECUTIVE SESSION**

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

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

Not Present: Terracio

The vote in favor was unanimous.

***Council went into Executive Session at approximately 9:42 PM
and came out at approximately 10:32 PM***

AUDIO PROBLEMS

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

Not Present: Terracio

The vote in favor was unanimous.

Mr. Walker indicated no action was taken in Executive Session.

- a. County Attorney Contract
- b. Property Inquiry – 1430 Colonial Life Blvd., also known as the old Haverty’s property
- c. Property Inquiry – 1221 Gregg Street, Columbia, SC 29201, TMs # R11406-16-16, TMS # R11406-16-17

Ms. Mackey moved, as it relates to Items 17(c) and 17(d), to authorize the County Administrator to move forward with negotiations, seconded by Mr. Livingston.

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

Not Present: Terracio

The vote in favor was unanimous.

24. **MOTION PERIOD** – No motions were submitted.

25. **ADJOURNMENT** – Ms. Newton moved to adjourn the meeting, seconded by Ms. Mackey

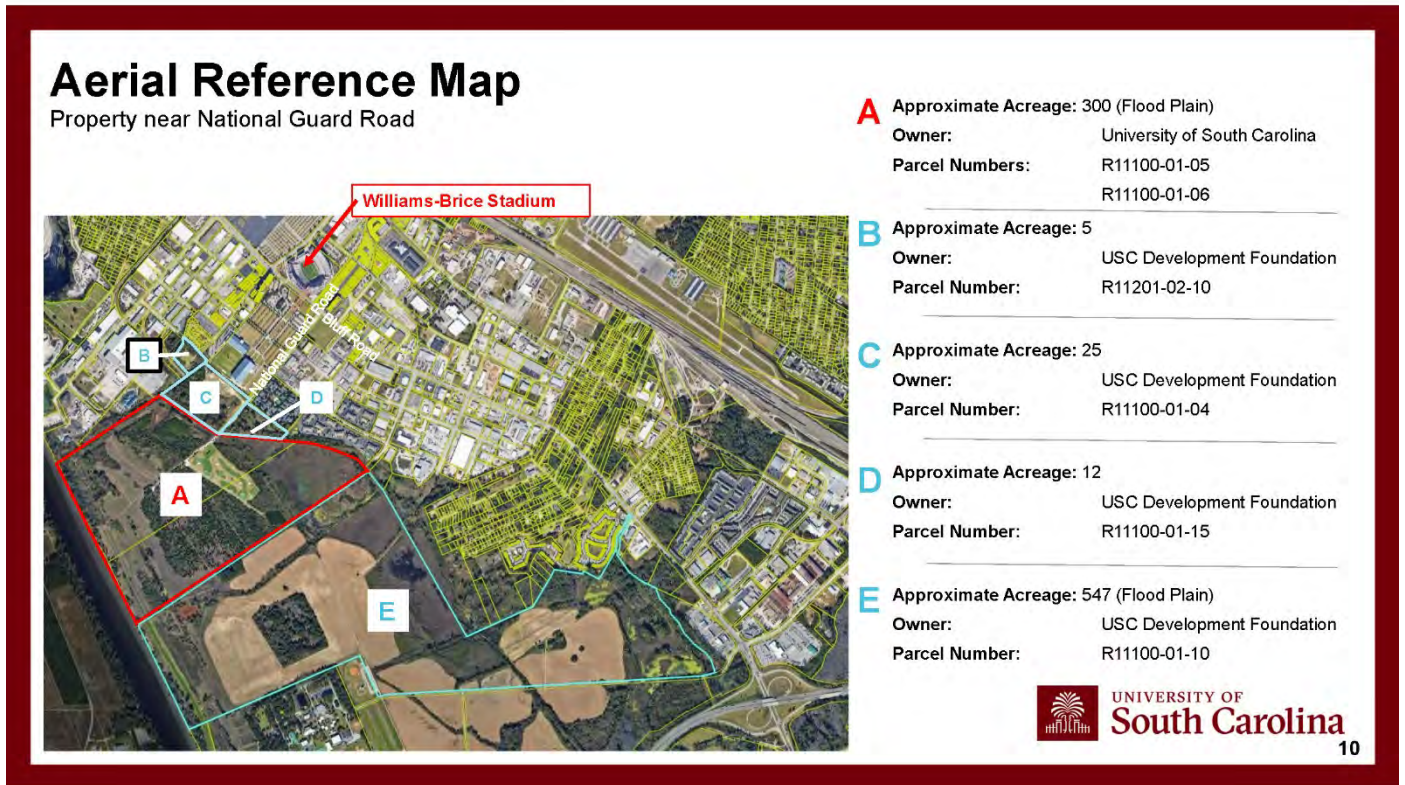
In Favor: Branham, Pugh, McBride, Livingston, Weaver, Barron, Walker, Mackey, English, and Newton

Not Present: Terracio

The vote in favor was unanimous.

The meeting adjourned at approximately 10:35 PM.

Preliminary Land Acquisition- River Property Map



Subject parcels for acquisition are outlined in blue and labeled “B” through “D”. Parcel “A” is owned by the university.



Report of the County Administrator

Regular Session - October 17, 2023

UPDATES FOR CONSIDERATION:

Grievance Committee Process: The County Council appoints the Employee Grievance Committee which is composed of seven (7) employees who serve for staggered terms of three (3) years.

Per the employee handbook, “a grievance is defined as any complaint by a regular employee that s/he has been treated unfairly, unlawfully, or in violation of his/her rights under county policies, with regard to any matter pertaining to his/her employment by the County.”

Following a hearing, the Grievance Committee will provide its findings and recommendation via a written report to the County Administrator. The County Administrator then forwards the Committee’s report and his/her evaluation and recommendation to the County Council for consideration. If the Council approves the findings and the recommendation of the Committee, a copy thereof is sent to the employee and the department head involved. However, if the Council disagrees, the Council will make its own decision without further hearing, and that decision will be final. Copies of the Council’s decision will be provided to the employee and to department head involved.

If the Administrator, at his/her sole discretion, believes that s/he is unable to give Council an objective recommendation and evaluation of the grievance, s/he will forward the Committee's findings and recommendations without his/her own evaluation and recommendation.

ADMINISTRATOR’S NOMINATION:

Items in this section require action that may prejudice the County’s interest in a discernable way (i.e. time sensitive, exigent, or of immediate importance)

Community Planning & Development – Conservation Division - Mitigation Bank Credit Sales – Chester Village: Staff recommends approval of the D.R. Horton, Inc. request to purchase 4.4 wetland credits for the construction of the Chester Village development in Chester County at a rate of \$20,000 per credit.

ATTACHMENTS:

1. Grievance Procedure – Richland County Employee Handbook
2. Agenda Briefing: Community Planning & Development – Conservation Division - Mitigation Bank Credit Sales – Chester Village

Employee Grievance

Grievance Procedure

This procedure is adopted in accordance with the County and Municipal Employees Grievance Procedures Act, sections 8-17-110, et seq., Code of Laws of South Carolina, 1976, as amended.

A grievance is defined as any complaint by a Regular employee that s/he has been treated unfairly, unlawfully, or in violation of his/her rights under county policies, with regard to any matter pertaining to his/her employment by the County. This definition includes, but is not limited to, discharge, suspension, involuntary transfer, promotion, and demotion.

Matters involving compensation are not proper subjects for consideration under the grievance procedure except as they may apply to alleged inequities within an agency or department of the County. Employee performance appraisal ratings may not be the subject of a grievance before the grievance committee.

If a Regular employee believes that he/she has not received or been credited with or has otherwise lost benefits to which he/she is entitled, he/she must present his/her grievance in accordance with this procedure; or such wages or benefits may be forfeited.

Only Regular employees may appeal their grievances to the Richland County Grievance Committee. Employees in their initial probationary period of County employment may appeal up to the level of Department Head and no further in the process. Department Heads may appeal up to the Assistant County Administrator responsible for their area of operations.

An employee who feels that he/she has a grievance must follow the following procedure:

Step 1: Discuss the grievance with his/her immediate supervisor. If his/her supervisor is unable or unwilling to adjust the grievance to the satisfaction of the employee, the employee must take Step 2.

Step 2: Follow the chain of command, appealing to each successive level of supervision. At each level, each supervisor will have two (2) work days to render a decision. The supervisor has two days to review the grievance, respond to the grievance, and forward to the next level of supervision in the chain of command. If a supervisor at a particular level is unavailable to consider the grievance, it is considered denied and the employee may appeal to the next level of supervision.

If the Department Head in which the employee is employed denies the grievance, this decision is final as to any grievance brought by an employee in his/her initial new hire probationary period of County employment.

Employee Grievance

An employee, other than one serving an initial probationary period, may appeal to the employee grievance committee the denial of his/her grievance by the Department Head, by filing a written request for appeal with the Human Resources Department. This must be done within fourteen (14) calendar days of the date that the facts on which the grievance are based become known to the employee. The written request for appeal must include the purpose of the appeal and what recommendation is requested of the grievance committee.

The Human Resources Department will assist the employee in preparing the appeal, if requested.

Within ten (10) days of receipt of the employee's request, the Chair of the Grievance Committee should schedule the requested hearing and notify the Grievance Committee, the employee requesting the hearing, the affected department, and the Human Resources Department.

The Employee Grievance Committee

The County Council will appoint a committee composed of seven (7) employees to serve for staggered terms of three (3) years, except that the members appointed initially will be appointed so that their terms will be staggered, and approximately one-third (1/3) of the terms will expire each year.

A member will continue to serve after the expiration of his/her term until a successor is appointed.

Any interim appointment to fill a vacancy for any cause prior to the completion of a member's term will be for the unexpired term.

Any member may be appointed for succeeding terms at the discretion of the County Council.

All members will be selected on a broadly representative basis from among County employees.

Members employed in the same department as the grieving employee and members who have formed an opinion on the issues prior to the hearing will not participate in that employee's hearing.

The Council will qualify and appoint no fewer than one (1) and no more than four (4) employees to serve for a term of three (3) years as alternate members of the Employee Grievance Committee. In the event three (3) or more permanent members of the committee are disqualified or otherwise unable to participate in a grievance proceeding, such that a quorum of the committee as required by this section would otherwise be unavailable, a sufficient number of alternate members should be called to constitute a quorum so that the grievance may be heard.

Alternate members may seek appointment as interim or permanent committee members as vacancies occur, in which event the council will designate replacements for such alternate members chosen for full membership on the committee.

Employee Grievance

The committee annually will select its own chair from among its members. The chair will serve as the presiding officer at all hearings which s/he attends, but may designate some other member to serve as presiding officer in his/her absence. The chair will have authority to schedule and to re-schedule all hearings.

A quorum consists of at least five (5) members, and no hearings may be held without a quorum.

The presiding officer will have control of the proceedings. He/She will take whatever action is necessary to ensure an equitable, orderly, and expeditious hearing. Parties will abide by his/her decisions, except when a committee member objects to a decision to accept or reject evidence, in which case the majority vote of the committee will govern.

The committee has the authority to call for files, records, and papers which are pertinent to the investigation and which are subject to the control of the County Council; to call for or consider affidavits of witnesses; to request and hear the testimony of witnesses; to consider the results of polygraph examinations; and to secure the service of a recording secretary at its discretion. The committee has no authority to subpoena witnesses, documents, or other evidence; nor will any County employee be compelled to attend any hearing. All proceedings will be tape-recorded by the Legal Department. Witnesses, other than the grieving employee and the department representative, will be sequestered when not testifying. All witnesses will testify under oath.

All hearings will be held in executive session unless the grieving employee requests at the beginning of the hearing that it be held in open session. The official tape recording and the official minutes of all hearings will be subject to the control and disposition of County Council.

Neither the grieving employee nor the department may be assisted by advisors or by attorneys during the hearing itself. The Committee may, in its discretion, request the assistance of counsel to advise the committee in dealing with any legal issues that arise in the course of considering a grievance. The Human Resources Department will provide assistance in reading written materials to the committee at the request of a grieving employee.

When a grievance involves disciplinary action, the employee must receive a reasonably specific and detailed written notice of the nature of the acts or omissions that are the basis for the disciplinary action. This notice may be amended at any time twenty-four (24) hours or more before the commencement of the hearing. The department will make the first presentation.

In grievances not involving disciplinary actions, the employee must establish to the Grievance Committee that a right existed and that it was denied him/her unfairly, illegally, or in violation of a County policy. The employee will make the first presentation.

In all grievances, the grieving employee and the department will each be limited to one (1) hour of initial presentation. The party required to make the first presentation will be entitled to a ten (10) minute rebuttal of the other party's presentation. The chair will appoint someone on the committee as timekeeper.

Employee Grievance

In all grievances, presentations may be oral or in writing or both and may be supported by affidavits or unsworn signed statements from witnesses, by records, other documentary evidence, photographs, and other physical evidence. Presentations will be made by the grieving employee (with reading assistance from the Human Resources Department, if the employee desires) and by a managerial employee of the affected department. Neither party may call witnesses or question the other party, or question any witness called by the Committee. While either party may request that the Committee ask certain questions of witnesses or address parties, the Committee is not required to do so.

Except as provided below, within twenty (20) days after hearing an appeal, the Committee will make its findings and recommendation and report such findings and recommendation in writing to the County Administrator. After considering the Committee's findings and recommendations, the County Administrator will forward to the County Council both the Committee's findings and recommendations and his/her evaluation and recommendation. If the Council approves the findings and the recommendation of the Committee, a copy of the decision will be transmitted to the employee and to the head of the particular department involved, along with notice that Council approved the decision. If, however, the Council disagrees in any respect with the findings or recommendation, the Council will make its own decision without further hearing, and that decision will be final. Copies of the Council decision will be transmitted to the employee and to the head of the particular department involved.

If the Administrator, at his/her sole discretion, believes that he/she is unable to give Council an objective recommendation and evaluation of the grievance, he/she will forward the Committee's findings and recommendations without adding his/her own evaluation and recommendation.

In grievances involving the failure to promote or transfer, or to discipline or discharge, personnel employed in or seeking assignment to departments under the direction of an Elected Official or an official appointed by an authority outside County government, the Committee will, within twenty (20) days after hearing an appeal, make its findings and recommendation and report such findings and recommendation to such official. If the official approves, the recommendation of the Committee will be his/her decision and a copy of the decision will be communicated by the Committee to the employee. If, however, the official rejects the decision of the Committee, the official will make his/her own decision without further hearing; and that decision will be final. A copy of the official's decision should be communicated to the employee.

Nothing in this grievance procedure creates a property interest in employment or a contract of employment, nor does this procedure limit the authority of the County or an Elected or Appointed Official to terminate any employee when the County or respective Elected or Appointed Official considers such action to be necessary for the good of the County.



Agenda Briefing

Prepared by:	Quinton Epps	Title:	Division Manager
Department:	Community Planning & Development	Division:	Conservation
Date Prepared:	October 3, 2023	Meeting Date:	October 17, 2023
Legal Review	Patrick Wright via email	Date:	October 9, 2023
Budget Review	Abhijit Deshpande via email	Date:	October 9, 2023
Finance Review	Lori Thomas via email	Date:	October 17, 2023
Approved for consideration:	Assistant County Administrator	Aric A Jensen, AICP	
Meeting/Committee	Regular Session		
Subject	Mitigation Bank Credit Sales – Chester Village		

RECOMMENDED/REQUESTED ACTION:

Staff recommends approval of the D.R. Horton, Inc. request to purchase 4.4 wetland credits for the construction of the Chester Village development in Chester County at a rate of \$20,000 per credit.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input 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:

These mitigation credit sales and the Out of Service Area Fee will generate \$111,466.67 which will be credited to the Transportation Penny Program.

Applicable department/grant key and object codes: 1233100000-461000

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

Not applicable.

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

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

None applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

STRATEGIC & GENERATIVE DISCUSSION:

Staff requests approval for the sale of mitigation bank credits from the Mill Creek Mitigation Bank to the recommended entity and amounts to fulfill their permitting requirements.

The total combined transaction value is \$111,466.67.00 which will be returned to the Penny Program. The County's current credit ledger balance is as follows:

Credit Type	Released County Credits	County Credits Used or Sold	County Reserved Credits	Available County Credits
Wetland	800.000	258.365	100.00	441.635
Stream	30,000.000	26,600.00	3,400.00	0.00

Interim Transportation Director Maloney estimates as currently constituted, the remaining projects in the Transportation Penny program will require 100 wetland credits and 3,400 stream credits. Those numbers would increase if the Penny tax is extended and more projects are added. Based on these estimates, the request for 4.4 wetland credit and 0.0 stream credits will not impact the County's ability to implement the Penny Program. As such, staff recommends approval for the sale of 4.4 wetland credits from the County Credits. This will bring the County's current credit ledger balance to the following which will meet the projected need for the Penny Program:

Credit Type	Released County Credits	County Credits Used or Sold	County Reserved Credits	Available County Credits
Wetland	800.000	262.765	100.00	437.235
Stream	30,000.000	26,600.00	3,400.00	0.00

ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INTIATIVE:

The Mill Creek Mitigation Bank (MCMB) has met and continues to meet portions of all six (6) of the Strategic Goals in the Strategic Planning Report for Richland County dated June 29, 2022 as outlined below:

1. Foster Good Governance – Objective 1.1: The MCMB began with realistic and achievable goals, a shared vision and agreement with county leadership, using metrics for accountability, in collaboration with other governments, and has been re-evaluated during our annual plans each year.
2. Invest in Economic Development – Objective 2.1: The MCMB helps to create high paying jobs through planned growth and strategic development projects by providing mitigation where needed to offset environmental impacts to water resources and restore, preserve and enhance our natural resources.
3. Commit to Fiscal Responsibility – Objective 3.1: The MCMB has been aligned with budget priorities by providing mitigation opportunities at a reduced cost to Richland County, bringing in funds from other sources, and promoting sustainable economic development in Richland County.
4. Plan for Growth through Inclusive and Equitable Infrastructure – Objective 5.1: The MCMB has been a model for interdepartmental coordination and plans to enable smart growth. It has provided positive outcomes for development along with the preservation of sensitive lands.

5. Achieve Positive Public Engagement – Objective 6.4: The MCMB has provided and continues to provide wetland and stream credits to many development projects in Richland County and other areas of the state achieving success stories for Richland County.
6. Establish Operational Excellence – Objective 7.5: The MCMB has met the original goals to provide mitigation credits for the Transportation Penny Program as well as other development projects and to preserve, restore and enhance sensitive lands in Richland County.

ATTACHMENTS:

1. Mill Creek Credit Sales Checklist - Chester Village - DR Horton
2. Richland County Credit Sales Agreement DR Horton Chester Village

MITIGATION SURPLUS CREDIT SALES AGREEMENT SUMMARY

<u>Project:</u>	Chester Village
<u>Location:</u>	Chester County, SC
<u>8-Digit HUC Watershed Code</u>	03050103 (Lower Catawba River)
<u>Buyer:</u>	Jim McKinney, D.R. Horton, Inc.
<u>Permittee:</u>	Jim McKinney, D.R. Horton, Inc.
<u>Permittee's USACE 404 Permit #:</u>	SAC-2023-00373
<u>Price Per Wetland Credit:</u>	\$20,000.00
<u>Price Per Stream Credit:</u>	N/A
<u>Wetland Credits:</u>	4.4 credits (2.2 restoration/enhancement & 2.2 preservation)
<u>Stream Credits:</u>	0.00 credits
<u>Credit Proceeds:</u>	\$88,000.00
<u>Fee for Out of Service Area Sale:</u>	\$23,466.67
<u>Gross Proceeds (Inclusive of Fee for Out of Primary Service Area Sale:</u>	\$111,466.67
<u>Penny Program Proceeds Share:</u>	\$111,466.67

AGREEMENT FOR PURCHASE AND SALE OF WETLAND MITIGATION CREDITS

THIS AGREEMENT FOR PURCHASE AND SALE OF WETLAND CREDITS (this "Agreement") is dated this ____ day of ____, 2023 by and between RICHLAND COUNTY and the owner and operator of a stream and wetland mitigation bank commonly known as the Mill Creek Mitigation Bank ("Seller"), and D.R. Horton, Inc. ("Purchaser").

RECITALS

A. The Mill Creek Mitigation Bank (the "Bank") was approved and is being operated pursuant to that certain Final Mitigation Banking Instrument: Mill Creek Mitigation Bank, dated December 22, 2015, United States Army Corps of Engineers - Charleston District (the "Corps") permit number SAC-2014-00222 (the "MBI");

B. Pursuant to the MBI, the Bank may offer wetland and stream credits for sale as compensation for unavoidable adverse impacts to, or for the loss of, among other things, jurisdictional waters of the United States, including wetlands and streams, and other natural habitats and ecosystems;

C. Purchaser desires to procure compensatory mitigation in connection with the project known as "Chester Village" (the "Purchaser's Project") pursuant to USACE Charleston District file number SAC-2023-00373; and,

D. Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, wetland mitigation credits pursuant to the terms and conditions set forth herein.

AGREEMENT

In consideration of the foregoing and the mutual promises, covenants, agreements and obligations of the parties contained in this Agreement, the adequacy and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Seller and Purchaser agree as follows:

1. Recitals. The recitals to this Agreement are herein incorporated by reference and made an integral part hereof.

2. Sale of Credits. Seller hereby sells to Purchaser, and Purchaser hereby purchases from Seller (a) TWO AND TWENTY HUNDREDTH (2.2) wetland restoration/non-buffer enhancement credits and TWO AND TWENTY HUNDREDTH (2.2) wetland preservation credits (together, the “Wetland Credits”) from the Bank based on the terms and conditions contained herein.

Upon execution of this Agreement, Seller shall provide Purchaser with an invoice for the Purchase Price (as defined in Section 3 below) and Purchaser shall remit payment within 14 days of receipt of such invoice. Upon receipt of such payment, Seller will hold Wetland Credits on its ledger for the benefit of Purchaser until such time as Purchaser provides written notice to Seller to deliver the Wetland Credits as provided in Section 4 below (the “Written Notice to Deliver the Wetland Credits”). For avoidance of doubt, upon receipt by Seller of the Purchase Price, the sale of the Wetland Credits to Purchaser shall be final, and shall not be contingent upon receipt by Purchaser of the approval of the Purchaser Project by the applicable regulatory authorities, or upon any other matter.

3. Purchase Price. The purchase price for the Wetland Credits shall be TWENTY THOUSAND and 00/100 Dollars (\$20,000.00) for each Wetland Credit, for a total price for the Wetland Credits of EIGHT-EIGHT THOUSAND DOLLARS (\$88,000.00) and an out of service area charge of TWENTY-THREE THOUSAND FOUR HUNDRED AND SIXTY-SIX DOLLARS AND SIXTY-SEVEN CENTS (\$23,466.67) for a total purchase price of ONE HUNDRED AND ELEVEN THOUSAND FOUR HUNDRED AND SIXTY-SIX DOLLARS AND SIXTY-SEVEN CENTS (\$111,466.67) (collectively, the “Purchase Price”). Upon payment of the Purchase Price in full, neither Purchaser, nor its successors, assignees or designees shall be liable for the payment to Seller of any other consideration or fee in connection with the sale of the Wetland Credits.

4. Delivery of Wetland Credits. Upon receipt of the Written Notice to Deliver the Wetland Credits, Seller shall:

(a) notify the Corps of the completion of the sale using such documentation as required by the Corps necessary to transfer the Wetland Credits to Purchaser in accordance with Corps policies and procedures and the terms of this Agreement, with a copy delivered to Purchaser; and

(b) deliver to Purchaser a bill of sale for the Wetland Credits in substantially the same form as Exhibit B attached hereto.

5. Representations, Warranties and Covenants. Seller hereby warrants and represents to, and covenants with, Purchaser as follows:

(a) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A and B.

(b) Seller has a sufficient number of credits in the Bank to consummate the transactions contemplated herein.

(c) Seller has full power and authority to convey the Wetland Credits to Purchaser and to consummate the transactions contemplated herein.

(d) Seller shall deliver the Wetland Credits to Purchaser free and clear of any liens, security interests or other encumbrances.

(e) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

(f) Seller hereby covenants and agrees with Purchaser that Seller shall not sell any number of credits in the Bank that would prevent the consummation of the transactions contemplated herein.

(g) Seller shall be solely responsible, at its sole cost and expense, for compliance with the requirements of this Agreement and with all statutes, regulations, and other requirements applicable to the operation, management, and maintenance of the Bank.

(h) That the execution and delivery of this Agreement on behalf of Seller has been duly authorized and such execution and delivery shall constitute the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(i) All of Seller's representations, warranties, and covenants herein shall survive the termination of this Agreement and the delivery of the bill or bills of sale pursuant to this Agreement.

6. Miscellaneous

(a) Notices. Any notice, demand or request which is required or permitted hereunder shall be deemed effective when hand delivered, sent by a receipted overnight delivery service, or mailed, via certified mail, to the following addresses:

Seller: Richland County
 Attn: Quinton Epps
 2020 Hampton St, 3rd Floor Rm 3063A
 Columbia, SC 29205

With a copy to:

Parker Poe Adams & Bernstein LLP
Attn: Ray Jones
1221 Main St., Suite 1100
Columbia, SC 29201

Purchaser: D.R. Horton, Inc.
Attn: Jim McKinney
8025 Arrowridge Boulevard
Charlotte, North Carolina 28723

With a copy to:

The parties may change the address for notices by delivery of a change of address to the other party in accordance with the requirements set forth above.

(b) Brokerage Commission. Seller and Purchaser each warrant to the other that no broker, agent, salesman or similar person is entitled to a commission or other fee in connection with this transaction.

(c) Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and neither Party shall be bound by representations except as set forth in this Agreement. There are no other agreements or understandings, written or oral, between the parties with regard to the subject matter of this Agreement. This Agreement shall not be modified or amended except by a written document executed by both parties.

(d) Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, with the proper venue being Richland County, except to the extent that any applicable federal law or regulation shall supersede South Carolina law in relation to the matters set forth in this Agreement.

(e) Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state, and local laws, rules, regulations, and orders in the conduct of their obligations hereunder.

(f) Severability. The provisions of this Agreement shall be deemed severable

and, if any term herein shall be held invalid, illegal, or unenforceable, the remainder of this Agreement shall continue to be effective and binding on the parties.

(g) Additional Assurances. Both of the parties agree to execute and deliver any other document or documents that may be requested from time to time by the other party necessary to perform such party's obligations under this Agreement.

(h) Attorney's Fees. If legal action is commenced by either party to enforce its rights under this Agreement, the substantially prevailing party in such action shall be entitled to recover reasonable costs incurred by it, including, but not limited to, reasonable attorneys' fees and costs, in addition to any other relief granted.

(i) Nature of Wetland Credits. The sale and conveyance of the Wetland Credits pursuant to this Agreement shall not constitute the conveyance or transfer of any right, interest, or ownership of real property or the Bank, nor shall such conveyance impose upon Purchaser any obligation, duty, or liability arising from or incident to ownership of an interest in real property.

(j) Assignability. Except as provided below, neither party hereto may assign its rights and obligations hereunder to any third-party entity without the prior written consent of the other, which may be withheld in the other party's sole discretion. Notwithstanding the foregoing sentence, Seller may assign this Agreement to a third-party entity which (i) purchases the Bank from Seller and assumes the rights, duties, and obligations of "bank sponsor" thereunder, and (ii) assumes in writing the obligations of Seller under this Agreement. Purchaser shall not have the right to consent to an assignment of the type described in the preceding sentence, but Seller shall provide Purchaser written notice of such assignment within 10 days following such assignment. Purchaser may assign its rights and obligations hereunder to any successor in interest of Purchaser or any entity that purchases all or part of the Purchaser's Project provided that party assumes the duties and obligation connected to the Credits, any requirements tied to USACE Charleston District file number SAC-2023-00373, and any state and federal permits related to the Purchaser's Project including, but not limited to, the ACE 404 permit applicable to the Purchaser's Project.

(k) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall together constitute one and the same Agreement. Signed signature pages may be transmitted by facsimile or email and any such signature or electronic signature shall have the same legal effect as an original.

WITNESS the following authorized signatures:

SELLER: RICHLAND COUNTY

By: _____

Printed:

Its:

PURCHASER: D.R. Horton, Inc.

By: _____

Printed:

Its:

EXHIBIT B

BILL OF SALE

THIS BILL OF SALE is made as of the ____ day of ____, 2023, by MILL CREEK MITIGATION BANK ("Seller"), and D.R. HORTON, INC. ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Wetland Mitigation Credits dated _____, 2023 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of Wetland Credits (as defined in the Agreement) held in Seller's Mill Creek Mitigation Bank, Richland County, South Carolina.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns, TWO AND TWENTY HUNDREDTH (2.2) wetland restoration/non-buffer enhancement credits and TWO AND TWENTY HUNDREDTH (2.2) wetland preservation credits, to have and hold all such Wetland Credits, forever. Witness the following authorized signature:

Richland County

By: _____

Printed:

Its:

Richland County Council Request for Action

Subject:

Case # 23-023MA
Kevin Steelman
M-1 to RS-LD (21.98)
111 Pine Wedge Drive
TMS # R17700-01-94 & R17700-01-14

Notes:

First Reading: September 26, 2023
Second Reading: October 3, 2023
Third Reading:
Public Hearing; September 26, 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 # R17700-01-94 AND R17700-01-14 FROM LIGHT INDUSTRIAL DISTRICT (M-1) TO RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT (RS-LD); 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 # R17700-01-94 and R17700-01-14 from Light Industrial District (M-1) to Residential Single-Family Low Density District (RS-LD).

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: September 26, 2023
First Reading: September 26, 2023
Second Reading: October 3, 2023
Third Reading: October 17, 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 Vista Depot Holding, LLC, among other of its affiliates, to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits, and other related matters

Notes:

First Reading: July 11, 2023

Second Reading: July 18, 2023

Third Reading:

Public Hearing: August 29, 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 VISTA DEPOT HOLDING, LLC, AMONG OTHER OF ITS AFFILIATES, TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.

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

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

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

WHEREAS, Vista Depot Holding, LLC, a South Carolina limited liability company (“Sponsor”), desires to establish a premier, mixed-use development project to include luxury apartments, a four-star hotel and a three-star hotel in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$135,000,000.00 (the “Investment”), which Investment is expected to include not less than \$25,000,000.00 in Public Infrastructure investment, and the creation of 135 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, and Vista Depot Res I, LLC, Vista Depot Garage, LLC, and Cola CH Holdings, LLC, among others, as sponsor affiliates, 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 Infrastructure Credits and other incentives, as described in the Fee Agreement, to assist in paying the costs of the Public 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, the employment to be created, and the anticipated costs and benefits to the County, and hereby finds:

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

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

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

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

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

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: July 11, 2023
Second Reading: July 18, 2023
Public Hearing: August 29, 2023
Third Reading: October 17, 2023

EXHIBIT A
FORM OF FEE AGREEMENT

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

BETWEEN

**VISTA DEPOT HOLDING, LLC,
AS SPONSOR,**

AND

**VISTA DEPOT RES I, LLC, VISTA DEPOT GARAGE, LLC, AND COLA CH HOLDINGS, LLC,
AS SPONSORS AFFILIATES,**

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.

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name	Vista Depot Holding, LLC	
Project Location	<i>[to be updated upon finalizing consolidation transactions]</i>	
Tax Map No.	<i>[to be updated upon finalizing consolidation transactions]</i>	
FILOT		
• Phase Exemption Period	30 years	
• Contract Minimum Investment Requirement	\$135,000,000.00	
• Contract Minimum Jobs Requirement	135 Full Time Jobs (defined below)	
• Investment Period	5 years	
• Assessment Ratio	6%	
• Millage Rate	.5502	
• Fixed or Five-Year Adjustable Millage	Fixed	
Multicounty Park	I-77 Corridor Regional Industrial Park	
Infrastructure Credit		
• Brief Description	50% Special Source Revenue Credit	
• Credit Term	15 years	
• Claw Back Information	<i>Pro-rata; Capped at Public Infrastructure Investment, see <u>Exhibit E</u></i>	
Other Information		

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 _____, 2023, 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 Vista Depot Holding, LLC, a limited liability company organized and existing under the laws of the State of South Carolina (“*Sponsor*”) together with Vista Depot Res I, LLC, Vista Depot Garage, LLC, and Cola CH Holdings, LLC, all limited liability companies organized and existing under the laws of the State of South Carolina (collectively, the “*Sponsor Affiliates*” and each a “*Sponsor Affiliate*” and the same together with Sponsor, the “*Sponsor 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*”), which Infrastructure may include 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; energy production or communications technology infrastructure; and expenditures used to eradicate blight (collectively, “*Public Infrastructure*”);

(c) The Sponsor Parties have committed to establish a commercial enterprise (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$135,000,000.00, which Target Investment is expected to include not less than \$25,000,000.00 in Public Infrastructure;

(d) By an ordinance enacted on _____, 2023, County Council authorized the County to enter into this Fee Agreement with the Sponsor Parties to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor Parties 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 \$2,500,000 in the Project within five years of the Commencement Date.

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

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

“Commencement Date” means the last day of the property tax year during which 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 at the Project of not less than \$135,000,000.00.

“Contract Minimum Jobs Requirement” means not less than 135 Full Time Jobs created by the Sponsor Parties in the County in connection with the Project.

“Contract Minimum Public Investment Requirement” means Public Infrastructure Investment at the Project of not less \$25,000,000.00. For the avoidance of doubt, the entire Public Infrastructure Investment at the Project will be counted towards achievement of this Contract Minimum Public Investment Requirement, and only that portion of such Public Infrastructure Investment comprised of taxable real and personal property shall be counted towards achievement of the Contract Minimum Investment Requirement.

“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).

“Equipment” means all of the personal property, 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, 2057, the Final Termination Date is expected to be December 31, 2057, which is the due date of the last FILOT Payment with respect to the Final Phase.

“Full Time Job” means a hired position required to work a minimum of one thousand eight hundred (1,800) hours within a single twelve (12) month period.

“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 Public Infrastructure. Infrastructure Credits are to be used for the payment of Public 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” means taxable investment in real and personal property at the Project.

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2028.

“**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.

“**Minimum Investment Requirements**” means, collectively, the Contract Minimum Investment Requirement and the Contract Minimum Public Investment Requirement.

“**Multicounty Park**” means the multicounty industrial or business park governed by the Amended and Restated Agreement Governing the I-778 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 the FILOT Payment net of the Infrastructure Credit.

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

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

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

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

“**Public Infrastructure**” means Infrastructure benefits the public or is dedicated to public use, including water, sewer, or stormwater improvements; greenspaces; recreation or community facilities; pedestrian or transportation facilities; parking facilities; facade redevelopment; roadway improvements; energy production or communications technology infrastructure; and expenditures used to eradicate blight.

“**Public Infrastructure Investment**” means investment in Public Infrastructure which is comprised of (i) investment in taxable real and personal property and (ii) all other costs incurred in relation to placing such real and personal property into service, *including, without limitation*, financing costs, engineering consulting costs, development costs, architectural consulting design costs, and costs relating to site preparation.

“**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 Vista Depot Holding, 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 Vista Depot Res I, LLC, Vista Depot Garage, LLC, and Cola CH Holdings, LLC, all limited liability companies organized and existing under the laws of the State of South Carolina and any other 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.

“*Sponsor Party*” shall have the meaning given in the preamble of 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 or any other Sponsor Party, 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 or any Sponsor Party.

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 _____, 2023 and by adopting an Inducement Resolution, as defined in the Act on even date.

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

(e) The County has located 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 mixed-use, premier, commercial facility to include luxury apartments, a four-star hotel, and a three-star hotel, and for such other purposes that the Act permits as the Sponsor may deem appropriate.

(c) The four-star hotel portion of the Project shall adhere to the criteria set-forth in the letter from the Commercial Real Estate Development Enterprises attached hereto at **Schedule 2.2(c)** (the “*Hotel Standard*”).

(d) 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.

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

(f) 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.

(g) 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 Parties intend and expect to (i) construct or acquire the Project and (ii) meet the Minimum Investment Requirement within the Investment Period. The Sponsor Parties anticipate that the first Phase of the Project will be placed in service not later than the calendar year ending December 31, 20[23]. 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 Minimum Investment Requirements are not met, the benefits provided to the Sponsor Parties, 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 a Sponsor Party, at the election of such Sponsor Party, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

Section 3.3 *Filings and Reports.*

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing in January 31, 20[24], the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor, Co-Sponsors, 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 0.5502, 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.

(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 or other applicable Sponsor Party elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, such Sponsor Party 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, each Sponsor Party 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 paragraph (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 paragraph (a)

above and elects not to restore or replace pursuant to paragraph (b) above, 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 Public Infrastructure, the Sponsor is entitled to claim an Infrastructure Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and calculation of the Infrastructure Credit is described in Exhibit D. In no event may the Sponsor's aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor Parties on Public Infrastructure.

For each property tax year during the Credit Term, the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit

D. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

ARTICLE VI **CLAW BACK**

Section 6.1 *Claw Back.* If the Sponsor Parties fail to perform their obligations under this Fee Agreement as described in **Exhibit E**, then the Sponsor Parties shall be subject to the claw backs as described in **Exhibit E**. Any amount that may be due from the Sponsor Parties 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 Parties to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section and **Exhibit E** survives termination of this Fee Agreement.

ARTICLE VII **DEFAULT**

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

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

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

(c) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced closure of the Facility;

(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 paragraph (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. For the avoidance of doubt, failure by the Sponsor Parties to develop the four-star hotel portion of the Project in accordance with the Hotel Standard shall be a failure by the Sponsor to perform its obligations under this Fee Agreement and an Event of Default under this Section 7.1;

(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 Parties 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 Parties. The Sponsor Parties 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 Parties 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 Parties 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 Parties shall pay the County within 30 days of receipt of the statement. The Sponsor Parties 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 Parties to resist or defend against any claim on behalf of an Indemnified Party. On such request, Sponsor Parties shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. Each Sponsor Party is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided that no Sponsor Party is 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 Parties are 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 Parties 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 Parties 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 Parties 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.* Each Sponsor Party may assign its interest in 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 conditioned, withheld, or delayed. Each Sponsor Party 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, no Sponsor Party is 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 Parties are not required to make FILOT Payments 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 \$10,000.00. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 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. Vista Depot Res I, LLC, Vista Depot Garage, LLC, and Cola CH Holdings, LLC are each designated as a Sponsor Affiliate and have

been approved by the County Council ordinance authorizing the execution and delivery of this Fee Agreement.

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 or other Sponsor Party 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 OR ANY OTHER SPONSOR PARTY:

VISTA DEPOT HOLDING, LLC
Attn: Ben D. Arnold
700 Gervais Street, Suite 275
Columbia, SC 29201

WITH A COPY TO (does not constitute notice):

Adams and Reese LLP
Attn: Anthony M. Quattrone
1221 Main Street, Suite 1200
Columbia, SC 29201
Anthony.Quattrone@arlaw.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
rayjones@parkerpoe.com

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 Parties.

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 requesting Sponsor Party, to the extent any expense is incurred, the County agrees to execute and deliver to such Sponsor Party such additional instruments as the Sponsor Party 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 Parties (in addition to the Infrastructure Credit explicitly provided for above) to the maximum extent permitted by law, to allow the Sponsor Parties to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

Section 10.9 Force Majeure. The Sponsor Parties are 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 Parties' 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

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

SPONSOR:

VISTA DEPOT HOLDING, LLC

By: Ben D. Arnold
Its: Manager

SPONSOR AFFILIATES:

VISTA DEPOT RES I, LLC
(by its sole-Member)

VISTA DEPOT HOLDING, LLC

By: Ben D. Arnold
Its: Manager

VISTA DEPOT GARAGE, LLC
(by its sole-Member)

VISTA DEPOT HOLDING, LLC

By: Ben D. Arnold
Its: Manager

COLA CH HOLDINGS, LLC
(by its sole-Member)

VISTA DEPOT HOLDING, LLC

By: Ben D. Arnold
Its: Manager

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

Schedule 2.2(c)

Hotel Standard Letter

(attached)



June 23, 2023

Mr. Ben Arnold
CEO
Arnold Family Corporation
700 Gervais Street
Suite 275
Columbia, SC 29201

Dear Mr. Arnold:

Per your request this letter is to serve as clarification and definition of the criteria required for a 4 star hotel in the United States. Based on industry standards and standards as defined by the International Society of Hospitality Consultants, (ISHC), the below information serves that specific purpose:

The Criteria for a 4-Star Hotel

The criteria for a 4-star hotel rating usually include factors such as the quality of guest rooms, the level of service provided, and the range of amenities offered. The guest rooms should be spacious, stylishly decorated, and equipped with high-quality furniture and appliances. A comfortable bed with high-quality bedding is also a must.

The hotel should also have a 24-hour reception/concierge desk, as well as daily housekeeping and room service. Other amenities that are commonly found in 4-star hotels include an upscale fitness center, a swimming pool, hot tub, and a restaurant. The hotel should also have a bar or lounge area where guests can relax and socialize. Additionally, a 4-star hotel should have meeting and conference facilities for business travelers.

Services and Amenities Offered in a 4-Star Hotel

Four-star hotels are known for offering a wide range of services and amenities to their guests. These amenities can include:

- **On-Site Restaurant:** The hotel should have at least one restaurant, serving breakfast, lunch, and dinner, and possibly snacks or light meals throughout the day.
- **Room Service:** Guests should be able to order food and drinks to their room at any time of the day or night.
- **Concierge Service:** A concierge should be available to help guests with any reservations or recommendations they may need.



- **24-Hour Reception:** A 4-star hotel should have a 24-hour reception desk, where guests can check-in and check-out at any time.
- **Swimming Pool / Hot Tub:** Many 4-star hotels have an indoor or outdoor swimming pool with Hot Tub proximate.
- **Upscale Fitness Center:** A 4-star hotel should have a 24 hour accessible upscale fitness center offering a variety of cardiovascular equipment and strength training machinery.
- **Meeting and Conference Facilities:** A 4-star hotel should have meeting and conference rooms available for business travelers.
- **Free Wi-Fi:** A 4-star hotel should have free Wi-Fi available throughout the property.

It is worth mentioning that the level of service provided in a 4-star hotel is typically high, and the staff should be friendly, knowledgeable, and professional. Keep in mind that the cost of staying in a 4-star hotel can be higher than other types of accommodations. However, the amenities and services offered make it a worthwhile investment for those seeking a luxurious and comfortable stay.

Dual Branded Hyatt Centric and Hyatt House Hotels

Based on the design development documents provided for our analysis of the new to be built ground up dual branded Hyatt Centric and Hyatt House hotels the combination of the two hotels together offer the following:

- **On-Site Restaurant:** The hotels offer a 3 meal restaurant (Centric), and a complimentary hot breakfast (House). Additionally, there are two markets offering sundry snacks and locally curated food and beverage products available on a 24 hour basis.
- **Bar/Lounge:** The Centric will offer an upscale multi seat lobby bar that is affiliated with the 3 meal restaurant. There will also be an 11th floor rooftop bar/lounge/brunch totaling 5,000sf of space serviced by both guest elevators and a VIP elevator. The House will offer a lobby bar as well.
- **Room Service:** There is a room service operation and the intent of ownership and operations is for this to be available to both hotels on a 24 hour basis.
- **Concierge Service:** A concierge will be available at both hotel properties.
- **24-Hour Reception:** Both hotel properties will have 24 hour reception.
- **Swimming Pool / Hot Tub:** The Hotels will offer an upscale swimming pool, hot tub experience. Cabanas and chaise lounges will be provided with food and beverage service available during operating hours.
- **Upscale Fitness Center:** Both hotels will offer a 24 hour accessible upscale fitness center offering a variety of cardiovascular equipment and strength training machinery.
- **Meeting and Conference Facilities:** Over 5,000sf of upscale meeting and prefunction space will provided in a variety of configurations.
- **Free Wi-Fi:** Both hotels will have free Wi-Fi available throughout the property.



Commercial Real Estate Development Enterprises

Hyatt Hotels

Based on information provided by Hyatt Hotels Development the following is a definition provided for Hyatt Centric Hotels. Hyatt Centric hotels offer an upper upscale, customizable, centrally located property that attract high-value guests that desire the amenities fitting of a 4 star hotel at the center of a prime destination.

Based on the contemplated design and amenities provided by the Dual Branded Hyatt Centric and Hyatt House Columbia, South Carolina, we find they are in compliance with standards as defined by Hyatt for Hyatt Centric.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted J. Torres", written in a cursive style.



Commercial Real Estate Development Enterprises

Ted J. Torres, CHA, ISHC | Managing Director

ted.torres@credegroupp.com

P (949) 542-4400 | **C** (480) 208-9962 | **F** (949) 582-1339

12034 East Yucca Street | Scottsdale, AZ 85259

credegroupp.com



EXHIBIT A
PROPERTY DESCRIPTION

[TO BE COMPLETED UPON CONSUMMATION OF CONSOLIDATION TRANSACTIONS]

EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

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

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

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

[_____]

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

Date

Name of Entity
By: _____
Its: _____

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

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT C (see Section 3.3)

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT D (see Section 5.1)
DESCRIPTION OF INFRASTRUCTURE CREDIT

The County shall provide a 50% Infrastructure Credit against the FILOT Payments due and owing from the Sponsor Parties to the County with respect to the Project as provided in this Agreement, provided, the cumulative total amount of the Infrastructure Credit shall not exceed the Sponsor Parties' Public Infrastructure Investment.

The Sponsor Parties are eligible to receive the Infrastructure Credit against each of the FILOT Payments due with respect to the Project for a period of 15 consecutive years, beginning with the first such FILOT Payment due with respect to the Project following the Verification Date (as defined below) and ending on the earlier of the 15th year or the year in which the cumulative total amount of the Infrastructure Credit equals the Company's investment in the Public Infrastructure ("***Credit Term***").

The Sponsor Parties shall certify its actual investment in the Public Infrastructure to the County, with such date of certification being the "***Certification Date***," which Certificate Date shall in no event be later than the end of the Investment Period, 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 Sponsor Parties' investment in the Public Infrastructure, in form and substance reasonably acceptable to the County. If the Sponsor Parties fail to achieve the Contract Minimum Public Investment Requirement by the end of the Investment Period then the Infrastructure Credit shall be reduced as set forth on **Exhibit E**.

Following the Certification Date, the County's Economic Development Department shall have 30 days to verify the Sponsor Parties' 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 and reasonable 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 30 days after the Certificate Date (the "***Verification Date***"), provide to the Sponsor Parties, by written notice, the County's determination of the verified amount of Company Public Infrastructure Investment.

EXHIBIT E (see Section 6.1)
DESCRIPTION OF CLAW BACK AND INFRASTRUCTURE CREDIT ADJUSTMENT

Claw Back:

If the Sponsor Parties fail to collectively achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement by the end of the Investment Period, a claw back shall be paid which is calculated as follows:

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

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

$$\text{Overall Achievement Percentage} = (\text{Investment Achievement Percentage} + \text{Jobs Achievement Percentage}) / 2 \text{ [may not exceed 100\%]}$$

$$\text{Investment Achievement Percentage} = \text{Actual Investment Achieved} / \text{Contract Minimum Investment Requirement} \text{ [may not exceed 110\%]}$$

$$\text{Jobs Achievement Percentage} = \text{Actual New, Full-Time Jobs Created} / \text{Contract Minimum Jobs Requirement} \text{ [may not exceed 110\%]}$$

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

For example, and by way of example only, if the County granted \$1,000,000.00 in Infrastructure Credits, and \$130,000,000.00 had been invested at the Project and 138 jobs had been created by the end of the Investment Period, the Repayment Amount would be calculated as follows:

$$\text{Investment Achievement Percentage} = \$130,000,000.00 / \$135,000,000.00 = \mathbf{96.3\%}$$

$$\text{Jobs Achievement Percentage} = 138/135 = \mathbf{102.2\%}$$

$$\text{Overall Achievement Percentage} = (96.3\% + 102.2\%) / 2 = 99.26\%$$

$$\text{Claw Back Percentage} = 100\% - 99.26\% = \mathbf{0.74\%}$$

$$\text{Repayment Amount} = \$1,000,000.00 \times 0.74\% = \mathbf{\$7,400.00}$$

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.

To the extent there are any years remaining in the Credit Term following the Investment Period, the Infrastructure Credit shall be prospectively reduced by the Claw Back Percentage during the remaining Credit Term (which reduction shall be calculated after the Public Infrastructure Reduction Percentage below, if applicable).

Public Infrastructure Reduction:

If the Sponsor Parties fail to achieve the Contract Minimum Public Investment Requirement by the end of the Investment Period then the Infrastructure Credit shall be reduced as follows.

Reduction Percentage = 100% - Public Infrastructure Achievement Percentage

Public Infrastructure Achievement Percentage = Actual Public Infrastructure Investment Achieved / \$25,000,000 *[may not exceed 100%]*

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

Richland County Council Request for Action

Subject:

Authorizing the issuance of General Obligation Bonds in one or more series, tax-exempt or taxable, in an amount not to exceed Ninety-Three Million Dollars (\$93,000,000), to fund the acquisition, construction, equipping, rehabilitation, and improvement of certain capital projects and to refund all or a portion of certain of the County's outstanding General Obligation Bonds; authorizing the County Administrator to prescribe the details of the issuance and sale of the bonds and the form and details of the bonds; providing for the disposition of the proceeds of the bonds and the payment of the bonds; and other related matters

Notes:

First Reading: October 3, 2023

Second Reading:

Third Reading:

Public Hearing:

**RICHLAND COUNTY
ADMINISTRATION**

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



Agenda Briefing

Prepared by:	Lori Thomas	Title:	Assistant County Administrator
Department:	Administration	Division:	
Date Prepared:	September 19, 2023	Meeting Date:	October 3, 2023
Legal Review	Patrick Wright via email	Date:	September 21, 2023
Budget Review	Abhijit Deshpande via email	Date:	September 22, 2023
Finance Review	Stacey Hamm via email	Date:	September 21, 2023
Approved for consideration:	County Administrator	Leonardo Brown, MBA, CPM	
Meeting/Committee	Regular Session		
Subject	Ordinance authorizing the issuance of General Obligation Bonds		

RECOMMENDED/REQUESTED ACTION:

Staff recommends the approval of an ordinance authorizing the issuance of general obligation bonds to fund the acquisition, construction, equipping, rehabilitation and improvement of certain capital projects and to refund all or a portion of certain of the County's outstanding general obligation bonds.

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:

Approval of this ordinance allows the funding of capital projects as approved by Council on September 19, 2023.

Applicable department/grant key and object codes:

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

Not applicable.

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

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

Not applicable.

MOTION OF ORIGIN:

“I’d to make a motion to authorize the County Attorney to draft resolutions regarding capital projects and transportation projects.”

Council Member	The Honorable Jesica Mackey, District 9
Meeting	Regular Session
Date	September 19, 2023

STRATEGIC & GENERATIVE DISCUSSION:

The purpose of this ordinance is to authorize the issuance of general obligation bonds for new funds to provide funding for capital projects as outlined below for Uses and Sources of Funds and approved by Council on September 12, 2023.

Uses of Funds	Cost
Family Services Center	\$49,173,881
Alvin S Glenn Detention Center	\$25,000,000
Voter Reg & Elections/SCDJJ	\$13,512,841
Total	\$87,686,722

Sources of Funds	
ARPA Allocation for DSS	\$17,480,389
General Obligation Bond Series 2023	\$71,000,000
Total	\$88,480,389

The ordinance is structured such that any modifications or changes in projects that may allow for additional funds availability will allow for funds to be redirected to other capital projects by Council approval.

ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INTIATIVE:

GOAL 4 – Plan for Growth through Inclusive and Equitable Infrastructure -

* Prioritize improvements to County infrastructure based on County priorities as established in strategic plan, budget and capital improvement plan and community priorities.

ATTACHMENTS:

1. Richland County, SC Ordinance Authorizing the Issuance of General Obligation Bonds in One Or More Series, Tax-Exempt or Taxable, In an Amount Not to Exceed Ninety-Two Million Dollars (\$93,000,000)
2. Considerations for Capital Building Plan Financing

RICHLAND COUNTY, SOUTH CAROLINA

ORDINANCE NO. _____ - 23HR

AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS IN ONE OR MORE SERIES, TAX-EXEMPT OR TAXABLE, IN AN AMOUNT NOT TO EXCEED NINETY TWO MILLION DOLLARS (\$93,000,000), TO FUND THE ACQUISITION, CONSTRUCTION, EQUIPPING, REHABILITATION AND IMPROVEMENT OF CERTAIN CAPITAL PROJECTS AND TO REFUND ALL OR A PORTION OF CERTAIN OF THE COUNTY'S OUTSTANDING GENERAL OBLIGATION BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR TO PRESCRIBE THE DETAILS OF THE ISSUANCE AND SALE OF THE BONDS AND THE FORM AND DETAILS OF THE BONDS; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF THE BONDS AND THE PAYMENT OF THE BONDS; AND OTHER RELATED MATTERS.

ADOPTED: NOVEMBER 7, 2023

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SCHEDULE I Capital Projects..... SI-1

EXHIBIT A Form of Bond A-1

EXHIBIT B Form of BAN B-1

ORDINANCE NO. _____ - 23HR

AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS IN ONE OR MORE SERIES, TAX-EXEMPT OR TAXABLE, IN AN AMOUNT NOT TO EXCEED NINETY TWO MILLION DOLLARS (\$93,000,000), TO FUND THE ACQUISITION, CONSTRUCTION, EQUIPPING, REHABILITATION AND IMPROVEMENT OF CERTAIN CAPITAL PROJECTS AND TO REFUND ALL OR A PORTION OF CERTAIN OF THE COUNTY’S OUTSTANDING GENERAL OBLIGATION BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR TO PRESCRIBE THE DETAILS OF THE ISSUANCE AND SALE OF THE BONDS AND THE FORM AND DETAILS OF THE BONDS; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF THE BONDS AND THE PAYMENT OF THE BONDS; AND OTHER RELATED MATTERS.

THE RICHLAND COUNTY, SOUTH CAROLINA, COUNTY COUNCIL ORDAINS:

SECTION 1. Findings. The County Council (“Council”) of Richland County, South Carolina (“County”), finds and determines:

(a) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, (“Constitution”) and Title 4, Chapter 15, and Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended (collectively, the foregoing is the “County Bond Act”), provides that each county may incur general obligation bonded indebtedness upon such terms and conditions as the General Assembly may prescribe by general law subject to the following limitations: (i) such debt must be incurred only for a purpose which is a public purpose and a corporate purpose for a county, and (ii) unless excepted therefrom, such debt may be issued in an amount not exceeding eight percent of the assessed value of all taxable property of such county (“Bonded Debt Limit”).

(b) The County Bond Act further provides that if general obligation debt is authorized by a majority vote of the qualified electors of a county voting in a referendum, then there are no conditions or restrictions with respect to the amount of general obligation debt incurred except those restrictions and limitations imposed in the authorization to incur such indebtedness;

(c) Pursuant to Title 11, Chapters 15 and 21, Code of Laws of South Carolina 1976, as amended (collectively, “Refunding Act” and together with the County Bond Act, the “Act”), the county council of any county of the State may issue refunding bonds to such extent as such that county shall be indebted by way of principal, interest and redemption premium upon any outstanding bonds, maturing or called for redemption, less all sinking funds and other moneys on hand applicable thereto at any time to effect the refunding of any of its outstanding bonds, but not sooner than one year from the date the outstanding bonds fall due or have been called for redemption, unless the county council finds that a savings can be effected through advanced refunding of the outstanding bonds.

(d) County Council has determined that it is in the best interest of the County to (i) acquire, construct, equip, rehabilitate and improve certain capital projects and assets in the County, as more particularly described on Schedule I, or to undertake such other projects as are approved by Council in the County's capital improvement program (collectively, "Capital Projects"); and (ii) achieve debt service savings through a current refunding of all or a portion of the outstanding maturities of the County's General Obligation Bonds (Richland Library Projects) Series 2014A ("Refunded Bonds") issued in the original aggregate principal amount of \$35,590,000;

(e) The assessed valuation of all property in the County as of August 25, 2023 (unaudited), for purposes of determining the Bonded Debt Limit of the County is not less than \$1,899,041,015. Eight percent of this assessed value is \$151,923,281 ("County's Bonded Debt Limit"). As of the date of this Ordinance, the County has outstanding no more than \$63,610,000 of general obligation indebtedness which counts against the County's Bonded Debt Limit ("Outstanding Eight Percent Debt"). As of the date of this Ordinance, the difference between the County's Bonded Debt Limit and its Outstanding Eight Percent Debt is \$88,313,281, which amount is the not exceeding amount of general obligation indebtedness that the County may incur without a referendum;

(f) The Refunded Bonds were authorized by a majority vote of the qualified electors of the County in a referendum held on November 5, 2013, and the portion of general obligation debt authorized by this Ordinance and issued to refund the Refunded Bonds will not count against the County's Bonded Debt Limit;

(g) The Council has found it is in the best interest of the County for the Council to provide for the issuance of one or more series of general obligation bonds and general obligation refunding bonds of the County, taxable or tax-exempt, pursuant to the provisions of the Constitution and laws of the State of South Carolina, in an amount not to exceed Ninety Two Million Dollars (\$93,000,000) for the purposes of: (i) funding the Capital Projects; (ii) refunding the Refunded Bonds; and (iii) paying the costs of issuance related to the Bonds (defined below).

SECTION 2. Authorization and Details of the Bonds. Pursuant to the Act, the County is authorized to issue not exceeding Ninety Two Million Dollars (\$93,000,000) in general obligation bonds and general obligation refunding bonds of the County to be designated as "General Obligation Bonds" or "General Obligation Refunding Bonds," as applicable (the "Bonds"), for the purposes set forth in Section 1(g) above. The Bonds also may be issued in one or more series, taxable or tax-exempt, from time to time as may be determined in the manner provided below with such further designation of each series to identify the year in which such bonds are issued.

The Bonds may be issued as fully registered bonds; dated the date of their delivery or such other date as may be selected by the County Administrator or his lawful designee (collectively, "County Administrator"); may be in any whole dollar denomination or denominations of \$5,000 or any whole multiple thereof not exceeding the principal amount of the Bonds maturing in each year; shall be numbered from R-1 upward; shall bear interest from their date of issuance as may be determined by the County Administrator; and shall mature in such amounts and at such times as determined by the County Administrator.

SECTION 3. Delegation of Certain Details of the Bonds to the County Administrator. The Council delegates to the County Administrator all determinations regarding the sale and issuance of the Bonds and the form and details of the Bonds. The County Administrator is directed to consult with the

County's bond counsel and financial advisor in making any such determinations. The County Administrator shall keep Council advised of the status of the sale and issuance of the Bonds.

SECTION 4. Registrar/Paying Agent. Both the principal installments of and interest on the Bonds shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. As determined by the County Administrator, the County Treasurer or a qualified financial institution shall serve as the registrar/paying agent for the Bonds ("Registrar/Paying Agent") and shall fulfill all functions of the Registrar/Paying Agent enumerated herein.

SECTION 5. Registration and Transfer. The County shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose, the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

The Bonds shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent, duly executed by the registered owner or his duly authorized attorney. Upon the transfer of the Bonds, the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee new fully registered Bonds, of the same aggregate principal amount, interest rate and maturity as the surrendered Bonds. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name the Bonds shall be registered upon the registry books as the absolute owner of such Bonds, whether such Bonds shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bonds and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bonds to the extent of the sum or sums so paid, and neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring the Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver the Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obliged to make any such transfer of the Bonds during the period beginning on the Record Date (as defined in Section 6 hereof) and ending on an interest payment date.

SECTION 6. Record Date. The County establishes a record date ("Record Date") for the payment of interest or for the giving of notice of any proposed redemption of the Bonds, and such Record Date shall be the 15th day of the calendar month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of the Bonds, such Record Date shall not be more than 15 days prior to the mailing of notice of redemption of the Bonds.

SECTION 7. Lost, Stolen, Destroyed or Defaced Bonds. In case any Bond, at any time, is mutilated in whole or in part, or lost, stolen or destroyed, or defaced as to impair the value thereof to the owner, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver at the principal office of the Registrar/Paying Agent, or send by registered mail to the owner thereof at his request, risk and expense, a new bond of the same interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed

Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute bond shall furnish the County and the Registrar/Paying Agent evidence or proof satisfactory to the County and the Registrar/Paying Agent of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in such amount as may be required by the laws of the State of South Carolina or such greater amount as may be required by the County and the Registrar/Paying Agent. Any bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such substitute bond is issued.

All expenses necessary for the providing of any substitute bond shall be borne by the applicant therefor.

SECTION 8. Book-Entry System.

(a) Notwithstanding anything to the contrary herein, so long as the Bonds are being held under a book-entry system of a securities depository, transfers of beneficial ownership of the Bonds will be affected pursuant to rules and procedures established by such securities depository. The initial securities depository for the Bonds will be The Depository Trust Company (“DTC”), New York, New York. DTC and any successor securities depositories are hereinafter referred to as the “Securities Depository.” The Bonds shall be registered in the name of Cede & Co., as the initial Securities Depository nominee for the Bond. Cede & Co. and successor Securities Depository nominees are hereinafter referred to as the “Securities Depository Nominee.”

(b) As long as the Bonds are being held under a book-entry system, the Securities Depository Nominee will be recognized as the holder of the Bonds for the purposes of (i) paying the principal, interest and premium, if any, on such Bonds, (ii) selecting the portions of the Bonds to be redeemed if the Bonds are to be redeemed in part, (iii) giving any notice permitted or required to be given to bondholders under this Ordinance, (iv) registering the transfer of the Bonds, and (v) requesting any consent or other action to be taken by the holder of such Bonds, and for all other purposes whatsoever, and the County shall not be affected by any notice to the contrary.

(c) The County shall not have any responsibility or obligation to any participant, beneficial owner or other person claiming a beneficial ownership in the Bonds which is registered to a Securities Depository Nominee under or through the Securities Depository with respect to any action taken by the Securities Depository as holder of the Bonds.

(d) The County shall pay all principal, interest and premium, if any, on the Bonds issued under a book-entry system only to the Securities Depository or the Securities Depository Nominee, as the case may be, for such Bonds, and all such payments shall be valid and effectual to fully satisfy and discharge the obligations with respect to the principal, interest and premium, if any, on such Bonds.

(e) In the event that the County determines that it is in the best interest of the County to discontinue the book-entry system of transfer for the Bonds, or that the interests of the beneficial owners of the Bonds may be adversely affected if the book-entry system is continued, then the County shall notify the Securities Depository of such determination. In such event, the County shall execute and the Registrar/Paying Agent shall authenticate, register and deliver physical certificates for the Bonds in exchange for the Bonds registered in the name of the Securities Depository Nominee.

(f) In the event that the Securities Depository for the Bonds discontinues providing its services, the County shall either engage the services of another Securities Depository or arrange with the Registrar/Paying Agent for the authentication, registration and delivery of physical certificates in the manner described in (e) above.

(g) In connection with any notice or other communication to be provided to the holder of the Bonds by the County or by the Registrar/Paying Agent with respect to any consent or other action to be taken by the holder of the Bonds, the County or the Registrar/Paying Agent, as the case may be, shall establish a record date for such consent or other action and give the Securities Depository Nominee notice of such record date not less than 15 days in advance of such record date to the extent possible.

SECTION 9. Execution of Bonds. The Bonds shall be executed in the name of the County with the manual, facsimile, or electronic signature of the Chairman of Council (“Chair”) and attested by the manual, facsimile, or electronic signature of the Clerk to Council under the seal of the County which shall be impressed, imprinted or reproduced thereon. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. The Bonds shall bear a certificate of authentication in substantially the form set forth in Exhibit A executed by the manual, facsimile or electronic signature of an authorized representative of the Registrar/Paying Agent.

SECTION 10. Form of Bonds. The Bonds shall be in substantially the form set forth in Exhibit A, with such variations as may be determined by the County Administrator under Section 3.

SECTION 11. Security for Bonds. The full faith, credit and taxing power of the County are irrevocably pledged for the payment of the principal and interest of the Bonds as they mature and to create a sinking fund to aid in the retirement and payment thereof. There shall be levied and collected annually upon all taxable property in the County an *ad valorem* tax, without limitation as to rate or amount, sufficient for such purposes.

SECTION 12. Exemption from State Taxation. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the Code of Laws of South Carolina, 1976, as amended, from all South Carolina, county, municipal, school district and all other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest thereon may be includable in certain franchise fees or taxes.

SECTION 13. Sale of Bonds, Form of Notice of Sale. The Bonds may be sold at a public or private sale, as authorized by Section 11-27-40(4) of the Code of Laws of South Carolina, 1976, as amended, as the County Administrator may determine, using a notice of sale or other similar method to solicit offers for the purchase of the Bonds, as the County Administrator may determine.

SECTION 14. Deposit and Application of Bond Proceeds. The proceeds derived from the sale of the Bonds are to be used for the purposes set forth herein and shall be applied by the County solely to the purposes for which the Bonds have been issued.

SECTION 15. Preliminary and Final Official Statement. If required to sell the Bonds, the County authorizes and directs the County Administrator to prepare, or cause to be prepared, and use, or cause to be used, a preliminary Official Statement and a final Official Statement according to Rule 15c2-12 promulgated by the Securities Exchange Commission (“Rule 15c2-12”), and further authorizes and

directs such other appropriate County staff to prepare and provide such information as may be necessary for the County Administrator to so prepare and use such preliminary Official Statement and final Official Statement in connection with the sale of the Bonds. The County Administrator is further authorized to “deem final” the preliminary Official Statement on behalf of the County in accordance with Rule 15c-12.

SECTION 16. Defeasance.

(a) If any Bonds issued pursuant to this Ordinance shall have been paid and discharged, then the obligations of the Ordinance hereunder, and all other rights granted thereby shall cease and determine with respect to such Bonds. A Bond shall be deemed to have been paid and discharged within the meaning of this Section under any of the following circumstances:

(i) If a bank or other institution serving in a fiduciary capacity, which may be the Registrar/Paying Agent (“Escrow Agent”), shall hold, at the stated maturities of the Bond, in trust and irrevocably appropriated thereto, moneys for the full payment thereof; or

(ii) If default in the payment of the principal of such Bond or the interest thereon shall have occurred, and thereafter tender of payment shall have been made, and the Escrow Agent shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of payment; or

(iii) If the County shall have deposited with the Escrow Agent, in an irrevocable trust, either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America, which are not subject to redemption by the issuer prior to the date of maturity thereof, as the case may be, the principal of and interest on which, when due, and without reinvestment thereof, will provide moneys, which, together with the moneys, if any, deposited with the Escrow Agent at the same time, shall be sufficient to pay, when due, the principal, interest, and redemption premium, if any, due and to become due on such Bonds and prior to the maturity date or dates of such Bonds, or, if the County shall elect to redeem such series Bond prior to its stated maturity, and shall have irrevocably bound and obligated itself to give notice of redemption thereof in the manner provided in the Bond, on and prior to the redemption date of such Bonds, as the case may be; or

(iv) If there shall have been deposited with the Escrow Agent either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America the principal of and interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Escrow Agent at the same time, shall be sufficient to pay, when due, the principal and interest due and to become due on such Bond on the maturity thereof.

(b) In addition to the above requirements of paragraph (a), in order for this Ordinance to be discharged with respect to any Bond, all other fees, expenses and charges of the Escrow Agent have been paid in full at that time.

(c) Notwithstanding the satisfaction and discharge of this Ordinance with respect to a Bond, the Escrow Agent shall continue to be obligated to hold in trust any moneys or investments then held by the Escrow Agent for the payment of the principal of, premium, if any, and interest on, such Bond, to pay to the owners of such Bond the funds so held by the Escrow Agent as and when payment becomes due.

(d) Any release under this Section shall be without prejudice to the rights of the Escrow Agent to be paid reasonable compensation for all services rendered under this Ordinance and all reasonable expenses, charges, and other disbursements and those of their respective attorneys, agents, and employees, incurred on and about the performance of the powers and duties under this Ordinance.

(e) Any moneys which at any time shall be deposited with the Escrow Agent by or on behalf of the County for the purpose of paying and discharging any Bonds shall be and are assigned, transferred, and set over to the Escrow Agent in trust for the respective holders of such Bonds, and the moneys shall be and are irrevocably appropriated to the payment and discharge thereof. If, through lapse of time or otherwise, the holders of such Bonds shall no longer be entitled to enforce payment of their obligations, then, in that event, it shall be the duty of the Escrow Agent to transfer the funds to the County.

(f) In the event any Bonds are not to be redeemed within the 60 days next succeeding the date the deposit required by Section 16(a)(iii) or (iv) is made, the County shall give the Escrow Agent irrevocable instructions to mail, as soon as practicable by registered or certified mail, a notice to the owners of the Bonds at the addresses shown on the registry books that (i) the deposit required by subparagraph (a)(iii) or (a)(iv) of this Section 16 has been made with the Escrow Agent, (ii) the Bonds are deemed to have been paid in accordance with this Section and stating the maturity or redemption dates upon which moneys are to be available for the payment of the principal of, premium, if any, and interest on, the Bonds, and (iii) stating whether the County has irrevocably waived any rights to redeem the Bonds, or any of them, prior to the maturity or redemption dates set forth in the preceding clause (ii).

(g) The County covenants and agrees that any moneys which it shall deposit with the Escrow Agent shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Section, and whenever it shall have elected to redeem Bonds, it will irrevocably bind and obligate itself to give notice of redemption thereof, and will further authorize and empower the Escrow Agent to cause notice of redemption to be given in its name and on its behalf.

SECTION 17. Authority to Issue Bond Anticipation Notes. If the County Administrator or Chair, after consultation with the County's financial advisor or bond counsel, should determine that issuance of bond anticipation notes ("BANs") pursuant to Chapter 17 of Title 11 of the Code of Laws of South Carolina, 1976, as amended (the "BAN Act") rather than Bonds would result in a substantial savings in interest under prevailing market conditions or for other reasons would be in the best interest of the County, the County Administrator or Chair is hereby further requested and authorized to effect the issuance of BANs pursuant to the BAN Act. If BANs are issued and if, upon the maturity thereof the County Administrator and Chair should determine that further issuance of BANs rather than Bonds would result in a substantial savings in interest under then prevailing market conditions or for other reasons would be in the best interest of the County, the County Administrator and Chair are requested to continue the issuance of BANs until the County Administrator and Chair determine to issue the Bonds on the basis as aforesaid, and the Bonds are issued.

SECTION 18. Details of Bond Anticipation Notes. Subject to changes in terms required for any particular issue of BANs, the BANs shall be subject to the following particulars:

(a) The BANs shall be dated and bear interest either from the date of delivery thereof or, if the BAN is issued on a draw-down basis, from the date of each such advance, payable upon the stated maturity thereof, at the rate determined or accepted by the County Administrator and shall mature on such date, not to exceed one year from the issue date thereof, as shall be determined by the County

Administrator.

(b) The BANs shall be numbered from one upwards for each issue and shall be in any whole dollar denomination or in the denomination of \$5,000 or any integral multiple thereof requested by the purchaser thereof. The BANs shall be payable, both as to principal and interest, in legal tender upon maturity, at the principal office of the Registrar/Paying Agent or, at the option of the County, by the purchaser thereof.

(c) The County Administrator and Chair are authorized to carry out the sale of the BANs and to fix the rate of interest to be borne thereby.

(d) The BANs shall be in substantially the form attached hereto as Exhibit B.

(e) The BANs shall be issued in fully registered or bearer form or a book-entry-eligible form as specified by the County, or at the option of the County, by the purchaser thereof; provided that once issued, the BANs of any particular issue shall not be reissued in any other form and no exchange shall be made from one form to the other.

(f) In the event any BAN is mutilated, lost, stolen or destroyed, the County may execute a new note of like date and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated BAN, such mutilated BAN shall first be surrendered to the County, and in the case of any lost, stolen or destroyed BAN, there shall be first furnished to the County evidence of such loss, theft or destruction satisfactory to the County, together with indemnity satisfactory to it; provided that, in the case of a holder which is a bank or insurance company, the agreement of such bank or insurance company to indemnify shall be sufficient. In the event any such BAN shall have matured, instead of issuing a substitute note, the County may pay the same without surrender thereof. The County may charge the holder of such BAN with its reasonable fees and expenses in this connection.

(g) Any BAN issued in fully-registered form shall be transferable only upon the books of registry of the County, which shall be kept for that purpose at the office of the County as note registrar (or its duly authorized designee), by the registered owner thereof or by his attorney, duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the County as note registrar, duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any BAN, the County shall issue, subject to the provisions of paragraph (h) below, in the name of the transferee, a new note or notes of the same aggregate principal amount as the unpaid principal amount of the surrendered BAN. Any holder of a BAN in fully registered form requesting any transfer shall pay any tax or other governmental charge required to be paid with respect thereto. As to any BAN in fully-registered form, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal and interest of any BAN in fully-registered form shall be made only to or upon the order of the registered holder thereof, or his duly authorized attorney, and the County shall not be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such BAN to the extent of the sum or sums so paid.

(h) BANs issued in fully registered form, upon surrender thereof at the office of the County (or at such office as may be designated by its designee) as note registrar, with a written instrument of transfer satisfactory to the County, duly executed by the holder of the BAN or his duly authorized attorney, may, at the option of the holder of the BAN, and upon payment by such holder of any charges which the

County may make as provided in paragraph (i), be exchanged for a principal amount of notes in fully registered form of any other authorized denomination equal to the unpaid principal amount of surrendered BANs.

(i) In all cases in which the privilege of exchanging or transferring BANs in fully registered form is exercised, the County shall execute and deliver notes in accordance with the provisions of this Ordinance. All BANs in fully registered form surrendered in any such exchanges or transfers shall forthwith be canceled by the County. There shall be no charge to the holder of such BAN for such exchange or transfer of BANs in fully-registered form except that the County may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer.

SECTION 19. Security for Bond Anticipation Notes. For the payment of the principal of and interest on the BANs as the same shall fall due, the full faith, credit and taxing power of the County shall be pledged. In addition thereto, so much of the principal proceeds of the Bonds when issued shall and is hereby directed to be applied, to the extent necessary, to the payment of the BANs; and, further, the County covenants and agrees to effect the issuance of sufficient BANs or Bonds in order that the proceeds thereof will be sufficient to provide for the retirement of any BANs issued pursuant hereto.

SECTION 20. Tax and Securities Laws Covenants.

(a) The following covenants shall be applicable to any series of Bonds or BANs that are sold on a tax-exempt basis:

(i) The County covenants that no use of the proceeds of the sale of the Bonds or BANs authorized hereunder shall be made which, if such use had been reasonably expected on the date of issue of such Bonds or BANs would have caused the Bonds or BANs to be “arbitrage bonds,” as defined in the Internal Revenue Code of 1986, as amended (“Code”), and to that end the County shall comply with all applicable regulations of the Treasury Department previously promulgated under the Code so long as the Bond is outstanding.

(ii) The County further covenants to take all action necessary, including the payment of any rebate amount, to comply with Section 148(f) of the Code and any regulations promulgated thereunder.

(iii) The County covenants to file IRS form 8038, if the Code so requires, at the time and in the place required therefore under the Code.

(b) The County covenants and agrees that it will comply with and carry out all of the provisions of a continuing disclosure agreement, dated the date of delivery of the Bonds, which will meet the requirements of (i) Rule 15c2-12 and (ii) Section 11-1-85, Code of Laws of South Carolina, 1976, as amended.

SECTION 21. Authorization for County Officials to Execute Documents; Ratification of Prior Acts. The Council authorizes the Chair, County Administrator, Clerk to Council and other county officials or their designees (collectively, “Authorized Representatives”) to execute and consent to such documents and instruments as may be necessary to effect the intent of this Ordinance. Except as otherwise specifically stated in this Ordinance, any actions taken by any Authorized Representatives prior to the date of this Ordinance in furtherance of the issuance and sale of the Bonds, the financing of the Capital Projects,

or undertaking the Refunding, including the expenditure of funds and the execution of documents, are hereby approved, ratified and confirmed in all respects.

SECTION 22. Publication of Notice of Adoption of Ordinance. Pursuant to the provisions of Section 11-27-40 of the Code, the County Administrator, at his option, is authorized to arrange to publish a notice of adoption of this Ordinance.

SECTION 23. Retention of Bond Counsel and Other Professionals. The Council authorizes the County Administrator to retain the law firm of Parker Poe Adams & Bernstein LLP as its bond counsel, and the firm of First Tryon Advisors, as its financial advisor, in connection with the issuance of the Bonds.

The Council further authorizes the County Administrator to enter into such other contractual arrangements and hire such other professionals as may be necessary to effect the issuance, sale, execution and delivery of the Bonds, and the other transactions contemplated by this Ordinance.

SECTION 24. Reimbursement from Bond Proceeds.

(a) This Ordinance is the County's official declaration of intent pursuant to Treasury Regulation §1.150-2 to reimburse the County for expenditures incurred and paid in connection with the Public Safety Complex on or after the date occurring 60 days prior to the date of adoption of this Ordinance from the proceeds of the Bonds or an authorized BAN ("Expenditures").

(b) The County acknowledges that Expenditures which may be reimbursed are limited to Expenditures which are (i) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Treasury Regulation §1.150-2) under general federal income tax principles, or (ii) certain *de minimis* or preliminary expenditures satisfying the requirements of Treasury Regulation §1.150-2(f).

(c) The source of funds for the Expenditures with respect to the Public Safety Complex will be the County's general fund or capital projects fund.

(d) The County acknowledges that to be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (i) the date on which the Expenditures were paid, or (ii) the date the Public Safety Complex is placed in service, but in no event more than three years after the County made the original Expenditures.

SECTION 25. General Repealer. All ordinances, rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bonds are, to the extent of such conflict, repealed and this Ordinance shall take effect and be in full force from and after its adoption.

SECTION 26. No Personal Liability. No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the County contained herein or in the Bonds or BANs, and any other incorporated or referenced documents against any elected official of the County or any officer or employee of the County, as such, in his or her individual or personal capacity, past, present or future, either directly or through the County, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Ordinance, the Bonds and BANs are solely governmental obligations, and that no personal liability

whatsoever shall attach to, or be incurred by, any director, officer or employee, as such, past, present or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the County and the owners of the Bonds or BANs or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such elected official, officer and employee is, by the enactment of this Ordinance and the execution of the Bonds and BANs, and as a condition of, and as a part of the consideration for, the enactment of this Ordinance and the execution of the Bonds and BANs, expressly waived and released. The immunity of elected officials, officers and employees of the County and waiver and release of personal liability under the provisions contained in this Section shall survive the termination of this Ordinance and maturity of the Bonds or BANs issued hereunder.

[Signature Page Follows]

RICHLAND COUNTY, SOUTH CAROLINA

Chair, County Council
Richland County, South Carolina

[SEAL]

ATTEST:

Clerk to County Council
Richland County, South Carolina

RICHLAND COUNTY ATTORNEY'S OFFICE

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

READINGS:

First Reading: October 3, 2023
Second Reading: October 17, 2023
Public Hearing: November 7, 2023
Third Reading: November 7, 2023

SCHEDULE I

CAPITAL PROJECTS

Acquiring, constructing, equipping, rehabilitating and improving the Alvin S. Glenn Detention Center, a Family Service Center, and a Voter Registration and Elections Commission and South Carolina Department of Juvenile Justice facility.

EXHIBIT A
FORM OF BOND

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (“SECURITIES DEPOSITORY”), TO RICHLAND COUNTY, SOUTH CAROLINA, OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE SECURITIES DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
RICHLAND COUNTY
GENERAL OBLIGATION [REFUNDING] BONDS
[TAXABLE] SERIES 2023

No. R-[]

Interest Rate []%	Maturity Date []	Issue Date [Closing Date]	Original CUSIP []
-----------------------	----------------------	------------------------------	-----------------------

REGISTERED OWNER: []

PRINCIPAL AMOUNT: [] DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that Richland County, South Carolina (the “County”), is justly indebted and, for value received, hereby promises to pay to the Registered Owner named above, its successors or registered assigns, the principal amount shown above on the maturity date shown above, and to pay interest on such principal sum from the date hereof at the interest rate per annum shown above until the County’s obligation with respect to the payment of such principal sum shall be discharged.

[Principal and interest on this bond are payable at maturity on [], and will be payable by check or draft mailed to the person in whose name this bond is registered on the registration books of the County maintained by the [], as registrar/paying agent (the “Registrar/Paying Agent”). The principal of and interest on this bond is payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts, provided, however, that the interest on this fully registered bond will be paid by check or draft as set forth above.]

[Interest on this bond is payable semiannually on _____ 1 and _____ 1 of each year commencing _____ 1, 20[], until this bond matures, and shall be payable by check or draft mailed to the person in whose name this bond is registered on the registration books of the County maintained by the Registrar/Paying Agent, at the close of business on the 15th day of the calendar month next preceding each semiannual interest payment date. The principal and interest on this bond are payable in any coin or

currency of the United States of America which is, at the time of payment, legal tender for public and private debts, provided, however, that interest on this fully registered bond shall be paid by check or draft as set forth above.]

This bond is [one of an issue of bonds (the “Bonds”) of like date, of original issue, tenor and effect, except as to number, date of maturity, denomination and rate of interest, issued in an original aggregate principal amount of \$_____,] issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended; Title 4, Chapter 15 and Title 11, Chapter[s 15, 21 and] 27 Code of Laws of South Carolina, 1976, as amended; and an Ordinance duly adopted by the Richland County Council on [November 7], 2023 (the “Ordinance”). All capitalized terms used but not defined in this bond will have the meanings given in the Ordinance.

This bond shall not be valid or obligatory for any purpose, until the Certificate of Authentication hereon shall have been duly executed by the Registrar/Paying Agent.

For the payment of the principal of and interest on this bond as it matures and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, resources and taxing power of the County are hereby irrevocably pledged, and there shall be levied annually by the County Auditor and collected by the County Treasurer in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this bond as it matures and to create such sinking fund as may be necessary therefor.

[The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the Securities Depository Nominee, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by participants in the Securities Depository (“Participants”), with beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such Participants. Transfers of ownership shall be effected on the records of the Securities Depository and its Participants pursuant to rules and procedures established by the Securities Depository and its Participants. The County and the Registrar/Paying Agent will recognize the Securities Depository Nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including payments of principal of and redemption premium, if any, and interest on this bond, notices and voting. Transfer of principal and interest payments to Participants of the Securities Depository will be the responsibility of the Securities Depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Bonds by Participants will be the responsibility of such Participants and other nominees of such beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the Securities Depository, the Securities Depository Nominee, its Participants or persons acting through such Participants. While the Securities Depository Nominee is the owner of this bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this bond shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Ordinance and the Securities Depository.

The Bonds maturing on or prior to _____ 1, _____, shall not be subject to redemption prior to their stated maturities. The Bonds maturing on or after _____ 1, _____, shall be subject to redemption at the option of the County on or after _____ 1, _____, as a whole or in part at any time, and if in part in

such order of maturities as shall be determined by the County, at the redemption prices with respect to each Bond, expressed as a percentage of the principal amount of the Bonds to be redeemed, set forth below, together with the interest accrued thereon to the date fixed for redemption:

Period During Which Redeemed (<u>both dates inclusive</u>)	<u>Redemption Price</u>
-----------------------------------------------------------------	-------------------------

If less than all the Bonds of any maturity are called for redemption, the Bonds of such maturity to be redeemed shall be selected by lot by the Registrar/Paying Agent or by the Securities Depository in accordance with its procedures. In the event this bond is redeemable as aforesaid, and shall be called for redemption, notice of the redemption hereof, describing this bond and specifying the redemption date and the redemption price payable upon such redemption, shall be mailed by the Registrar/Paying Agent by first-class mail, postage prepaid, to the registered owner hereof not less than 30 days and not more than 60 days prior to the redemption date at such owner's address as it appears upon the registration books of the County. If this bond is redeemable and shall have been duly called for redemption and notice of the redemption hereof mailed as aforesaid, and if on or before the date fixed for such redemption, payment hereof shall be duly made or provided for, interest hereon shall cease to accrue from and after the redemption date hereof.]

This bond is transferable only upon the books of the County kept for that purpose at the principal office of the Registrar/Paying Agent by the Registered Owner hereof in person or by his duly authorized attorney upon surrender of this bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or his duly authorized attorney. Thereupon a new fully registered bond or bonds of the same series, aggregate principal amount, interest rate, and maturity shall be issued to the transferee in exchange herefor as provided in the Ordinance. The County and the Registrar/Paying Agent may deem and treat the person in whose name the bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina, this bond and the interest hereon are exempt from all State, county, municipal, school district and other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest hereon may be included for certain franchise fees or taxes.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of South Carolina to exist, to happen and to be performed precedent to or in the issuance of this bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this bond, together with all other general obligation and bonded indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State of South Carolina; and that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the County sufficient to pay the principal and interest of this bond as they respectively become due and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, RICHLAND COUNTY, SOUTH CAROLINA, has caused this bond to be signed with the manual, facsimile or electronic signature of the Chair, attested by the manual, facsimile or electronic signature of the Clerk to County Council and the seal of the County impressed, imprinted or reproduced hereon.

RICHLAND COUNTY, SOUTH CAROLINA

[SEAL]

Chair, County Council

ATTEST:

Clerk to County Council

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____, 2023

This bond is one of the Bonds described in the within-defined Ordinance of Richland County, South Carolina.

as Registrar/Paying Agent

By: _____
Authorized Officer

The following abbreviations, when used in the inscription on the face of this bond, shall be construed as though they were written out in full according to applicable laws or regulations:

- TEN COM - as tenants in common
- TEN ENT - as tenants in entireties
- JT TEN - as joint tenants with right of survivorship
and not as tenants in common

UNIF GIFT MIN ACT - _____
(Cust)

Custodian _____
(Minor)

under Uniform Gifts to Minors Act _____
(State)

Additional abbreviations may also be used, though not in the above list.

FORM OF ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Social Security No. or other Identifying Number of Assignee _____) the within Bond of Richland County, South Carolina, and does hereby irrevocably constitute and appoint _____ to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____

Signature Guaranteed: _____

NOTICE: Signature must be guaranteed by an institution who is a participant in the Securities Transfer Agents Medallion Program (STAMP) or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT B
FORM OF BAN

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
RICHLAND COUNTY
GENERAL OBLIGATION BOND ANTICIPATION NOTE
[TAXABLE] SERIES 2023

KNOW ALL MEN BY THESE PRESENTS that Richland County, South Carolina (the “County“) hereby acknowledges itself indebted, and for value received promises to pay to the [bearer] [registered owner] hereof, the principal sum of

at the principal office of _____, in the City [], State of [], on the _____ day of _____, _____, and to pay interest (calculated on the basis of a 360-day year consisting of twelve 30-day months) on said principal sum from the date hereof [from the date of each advance], at the rate of __%, payable upon the maturity of this note. This note is [is not] subject to prepayment prior to its maturity.

Both the principal of and interest on this note are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts.

This note is one of an issue of Bond Anticipation Notes, of like date, tenor and effect, except as to numbering and denomination, aggregating \$ _____ (the “Notes”), issued by the County, pursuant to the authorization of Title 11, Chapter 17, Code of Laws of South Carolina, 1976, as amended, in anticipation of the receipt of the proceeds to be derived from the general obligation bonds of the County (“Bonds”) to be issued pursuant to and in accordance with the provisions of the Constitution and Laws of the State of South Carolina including Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended and Title 4, Chapter 15, and Title 11, Chapter 27 of the Code of Laws of South Carolina, 1976, as amended, and Ordinance No. [] duly adopted by the County Council of the County on [], 2023. The full faith, credit and taxing power of the County and the proceeds to be derived from the sale of the Bonds are pledged for the payment of the principal of and interest on the Notes.

This note and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest hereon may be included in certain franchise fees or taxes.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and Laws of the State of South Carolina to exist, to happen, or to be performed precedent to or in the issuance of this note, do exist, have happened, and have been performed in regular and due time,

form and manner, and the amount of this note, and the issue of which this note is one, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, RICHLAND COUNTY, SOUTH CAROLINA, has caused this note to be signed by the manual, facsimile or electronic signature of the Chair of the County, attested by the manual, facsimile or electronic signature of the Clerk to County Council, the seal of the County impressed, imprinted or reproduced thereon and this note to be dated the ____ day of _____, 2023.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, County Council

[SEAL]

ATTEST:

Clerk to County Council

CONSIDERATIONS FOR CAPITAL BUILDING PLAN FINANCING

September 19, 2023



CURRENT PROJECTS

Currently under construction

Public Safety Complex for the
E-911 Center

Bond issued in 2022 for \$40,000,000

Cost will be approximately \$47,829,623

Balance will be from SCEMD reimbursements
and previously allocated funds.



FINANCING PROPOSAL

Uses of Funds	Cost
Family Services Center	\$49,173,881
Alvin S Glenn Detention Center	\$25,000,000
Voter Reg & Elections/SCDJJ	\$13,512,841
Total	\$87,686,722

Sources of Funds	
ARPA Allocation for DSS	\$17,480,389
General Obligation Bond Series 2023	\$71,000,000
Total	\$88,480,389

ASGDC Known Priorities

Plumbing Repair and Replacement Estimate \$8 million
 Upgrade remaining 16 housing units \$4 million
 Security Upgrades and Camera System Upgrades \$5 million
 Jail Management System Replacement \$600,000
 Attorney Visitation Area Upgrades \$6 million



GENERAL OBLIGATION BOND ISSUE

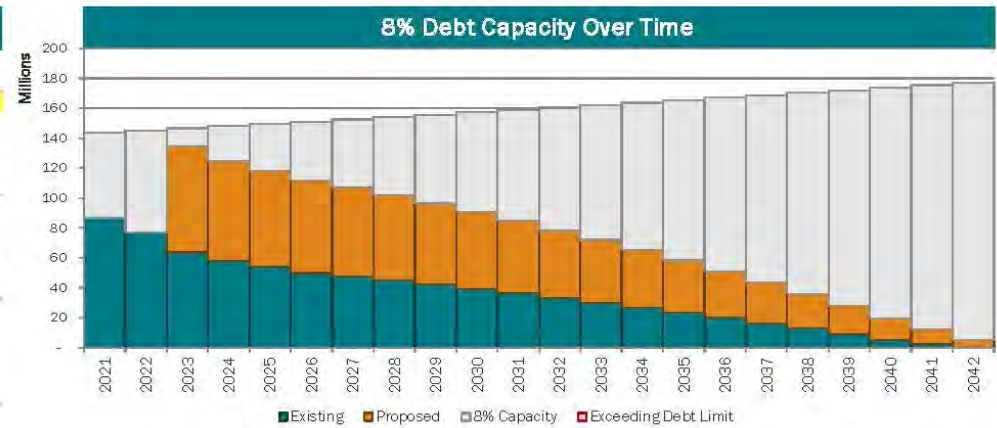
Richland County, South Carolina

Debt Service Millage Model
Scenario 1

As of 8/25/2023

Assessed Value	1,795,111,528
Debt Limit	143,608,922

Calendar Year	Debt Limit	Growth Rate	Existing		Proposed		8% Capacity
			8% Debt Amortization	8% Debt Outstanding	8% Debt Amortization	8% Debt Outstanding	
2021	143,608,922	3.19%	16,050,000	86,615,000	-	-	56,993,922
2022	145,222,506	1.12%	9,550,000	77,065,000	-	-	68,157,506
2023	146,674,731	1.00%	13,455,000	63,610,000	-	71,000,000	12,064,731
2024	148,141,478	1.00%	5,515,000	58,095,000	4,500,000	66,500,000	23,546,478
2025	149,622,893	1.00%	4,030,000	54,065,000	2,210,000	64,290,000	31,267,893
2026	151,119,122	1.00%	4,220,000	49,845,000	2,325,000	61,965,000	39,309,122
2027	152,630,313	1.00%	2,460,000	47,385,000	2,445,000	59,520,000	45,725,313
2028	154,156,616	1.00%	2,575,000	44,810,000	2,570,000	56,950,000	52,396,616
2029	155,698,182	1.00%	2,700,000	42,110,000	2,700,000	54,250,000	59,338,182
2030	157,255,164	1.00%	2,825,000	39,285,000	2,840,000	51,410,000	66,560,164
2031	158,827,716	1.00%	2,940,000	36,345,000	2,985,000	48,425,000	74,057,716
2032	160,415,993	1.00%	3,045,000	33,300,000	3,135,000	45,290,000	81,825,993
2033	162,020,153	1.00%	3,160,000	30,140,000	3,300,000	41,990,000	89,890,153
2034	163,640,354	1.00%	3,265,000	26,875,000	3,470,000	38,520,000	98,245,354
2035	165,276,758	1.00%	3,375,000	23,500,000	3,625,000	34,895,000	106,881,758
2036	166,929,525	1.00%	3,470,000	20,030,000	3,775,000	31,120,000	115,779,525
2037	168,598,821	1.00%	3,565,000	16,465,000	3,930,000	27,190,000	124,943,821
2038	170,284,809	1.00%	3,660,000	12,805,000	4,090,000	23,100,000	134,379,809
2039	171,987,657	1.00%	3,760,000	9,045,000	4,255,000	18,845,000	144,097,657
2040	173,707,534	1.00%	3,860,000	5,185,000	4,430,000	14,415,000	154,107,534
2041	175,444,609	1.00%	2,550,000	2,635,000	4,610,000	9,805,000	163,004,609
2042	177,199,055	1.00%	2,635,000	-	4,800,000	5,005,000	172,194,055
Total			123,790,000		71,000,000		



FIRST TRYON
ADVISORS



GENERAL OBLIGATION BOND DEBT PAYMENTS

Richland County, South Carolina
Debt Service Millage Model
Scenario 1

9/1/2021

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	Millage									Debt Service			Fund Balance				
Calendar Year	Value of a Mill	Assumed Growth Rate	Collection Percentage	Collected Value	Millage Rate	Collections	SW Revenues	Total Revenues	Existing DS Millage	Proposed DS Millage	Total	Surplus / (Deficit)	Use of Fund Balance	Fund Balance	Additional Mills Required	Fund Balance Target	
2021	1,725,000	3.92%	98.0%	1,690,500	10.00	16,905,000	52,662	16,957,662	20,346,152	-	20,346,152	(3,388,490)	(3,388,490)	3,259,497	-	1,500,000	
2022	1,780,000	3.19%	98.0%	1,744,400	10.00	17,444,000	52,757	17,496,757	15,031,678	-	15,031,678	2,465,079	-	5,724,576	-	1,500,000	
2023	1,800,000	1.12%	98.0%	1,764,000	10.00	17,640,000	52,592	17,692,592	17,659,323	-	17,659,323	33,269	-	5,757,845	-	1,500,000	
2024	1,818,000	1.00%	98.0%	1,781,640	10.00	17,816,400	52,565	17,868,965	11,615,551	4,604,054	16,219,606	1,649,360	-	7,407,205	-	1,500,000	
2025	1,836,180	1.00%	98.0%	1,799,456	10.00	17,994,560	52,670	18,047,230	9,909,071	5,106,806	15,015,878	3,031,353	-	10,438,558	-	1,500,000	
2026	1,854,542	1.00%	98.0%	1,817,450	10.00	18,174,500	52,715	18,227,215	9,902,281	5,108,431	15,010,713	3,216,503	-	13,655,060	-	1,500,000	
2027	1,873,087	1.00%	98.0%	1,835,625	10.00	18,356,250	52,700	18,408,950	7,985,481	5,109,181	13,094,663	5,314,288	-	18,969,348	-	1,500,000	
2028	1,891,818	1.00%	98.0%	1,853,981	10.00	18,539,810	52,625	18,592,435	7,985,206	5,108,806	13,094,013	5,498,423	-	24,467,771	-	1,500,000	
2029	1,910,736	1.00%	98.0%	1,872,521	10.00	18,725,210	52,674	18,777,884	7,988,344	5,107,056	13,095,400	5,682,484	-	30,150,255	-	1,500,000	
2030	1,929,844	1.00%	98.0%	1,891,246	10.00	18,912,460	52,655	18,965,115	7,988,850	5,108,556	13,096,956	5,868,159	-	36,018,414	-	1,500,000	
2031	1,949,142	1.00%	98.0%	1,910,159	10.00	19,101,590	52,631	19,154,221	7,988,850	5,107,931	13,096,781	6,057,440	-	42,076,854	-	1,500,000	
2032	1,968,633	1.00%	98.0%	1,929,260	10.00	19,292,600	52,576	19,345,176	7,985,138	5,104,931	13,090,069	6,255,107	-	48,330,962	-	1,500,000	
2033	1,988,320	1.00%	98.0%	1,948,553	10.00	19,485,530	52,614	19,538,144	7,989,366	5,109,056	13,098,422	6,439,722	-	54,770,684	-	1,500,000	
2034	2,008,203	1.00%	98.0%	1,968,038	10.00	19,680,380	52,611	19,732,991	7,983,791	5,109,806	13,093,597	6,639,395	-	61,410,078	-	1,500,000	
2035	2,028,285	1.00%	98.0%	1,987,719	10.00	19,877,190	52,753	19,929,943	4,085,806	5,105,556	9,191,363	10,738,580	-	72,148,659	-	1,500,000	
2036	2,048,568	1.00%	98.0%	2,007,596	10.00	20,075,960	52,663	20,128,623	4,083,606	5,107,556	9,191,163	10,937,460	-	83,086,119	-	1,500,000	
2037	2,069,054	1.00%	98.0%	2,027,672	10.00	20,276,720	52,715	20,329,435	4,087,134	5,108,456	9,195,591	11,133,844	-	94,219,963	-	1,500,000	
2038	2,089,744	1.00%	98.0%	2,047,949	10.00	20,479,490	52,719	20,532,209	4,085,838	5,108,056	9,193,894	11,338,315	-	105,558,278	-	1,500,000	
2039	2,110,642	1.00%	98.0%	2,068,428	10.00	20,684,280	52,705	20,736,985	4,086,806	5,106,156	9,192,963	11,544,023	-	117,102,301	-	1,500,000	
2040	2,131,748	1.00%	98.0%	2,089,113	10.00	20,891,130	52,642	20,943,772	4,082,550	5,107,456	9,190,006	11,753,765	-	128,856,067	-	1,500,000	
2041	2,153,065	1.00%	98.0%	2,110,004	10.00	21,100,040	-	21,100,040	2,677,075	5,106,656	7,783,731	13,316,309	-	142,172,375	-	1,500,000	
2042	2,174,596	1.00%	98.0%	2,131,104	10.00	21,311,040	-	21,311,040	2,677,819	5,105,456	7,783,275	13,527,765	-	155,700,140	-	1,500,000	
2043	2,196,342	1.00%	98.0%	2,152,415	10.00	21,524,150	-	21,524,150	-	5,108,228	5,108,228	16,415,922	-	172,116,062	-	1,500,000	
2044	2,218,305	1.00%	98.0%	2,173,939	10.00	21,739,390	-	21,739,390	-	-	-	21,739,390	-	193,855,452	-	1,500,000	
2045	2,240,489	1.00%	98.0%	2,195,678	10.00	21,956,780	-	21,956,780	-	-	-	21,956,780	-	215,812,232	-	1,500,000	
Total									211,281,754	101,648,195	312,929,949		(3,388,490)				

GENERAL OBLIGATION BOND ISSUE

- The issue would be \$71,000,00 in new money.
- If refunding any current debt to a more advantageous rate is possible, this may be proposed as well but would only lower debt payments, not increase them.
- Allows for unforeseen issues that may arise during projects.
- Leaves a comfortable \$12.4 million in borrowing capacity.
- Debt capacity continues to grow quickly by \$8 to 10 million after the issue as other debt is retired.
- Will be repaid from the County 10 mills allocated for capital.
- **DOES NOT INCREASE TAX MILLAGE**



TIMELINE

- September 12 - Council Work session with LS3P and MB Kahn
- September 19 – Request Council approval for Administrators nomination to proceed as recommended in work session
- October 3 – First reading of Bond Ordinance
- October 17 – Second reading of Bond Ordinance and public hearing
- November 7 – Third reading of Bond Ordinance
- Bond closing – TBD estimated to be by December 15, 2023



CONSTRUCTION TIMELINE

- If approved as proposed, an RFP for design/build would be issued as soon as possible following for the Family Services Center.
- Formal architectural and building plans for Voters Registration & Elections would begin immediately – estimated construction following design is 18-24 months.
- Construction at the Public Safety Complex will begin in coming weeks and is estimated to be complete December, 2024 with occupancy estimated at June 30, 2025
- Voters Registration and Elections is estimated for occupancy on or about January 1, 2026
- Family Services Center completion date would be better estimated following RFP award.



CURRENT PROJECTS

Currently under construction

Public Safety Complex for the
E-911 Center

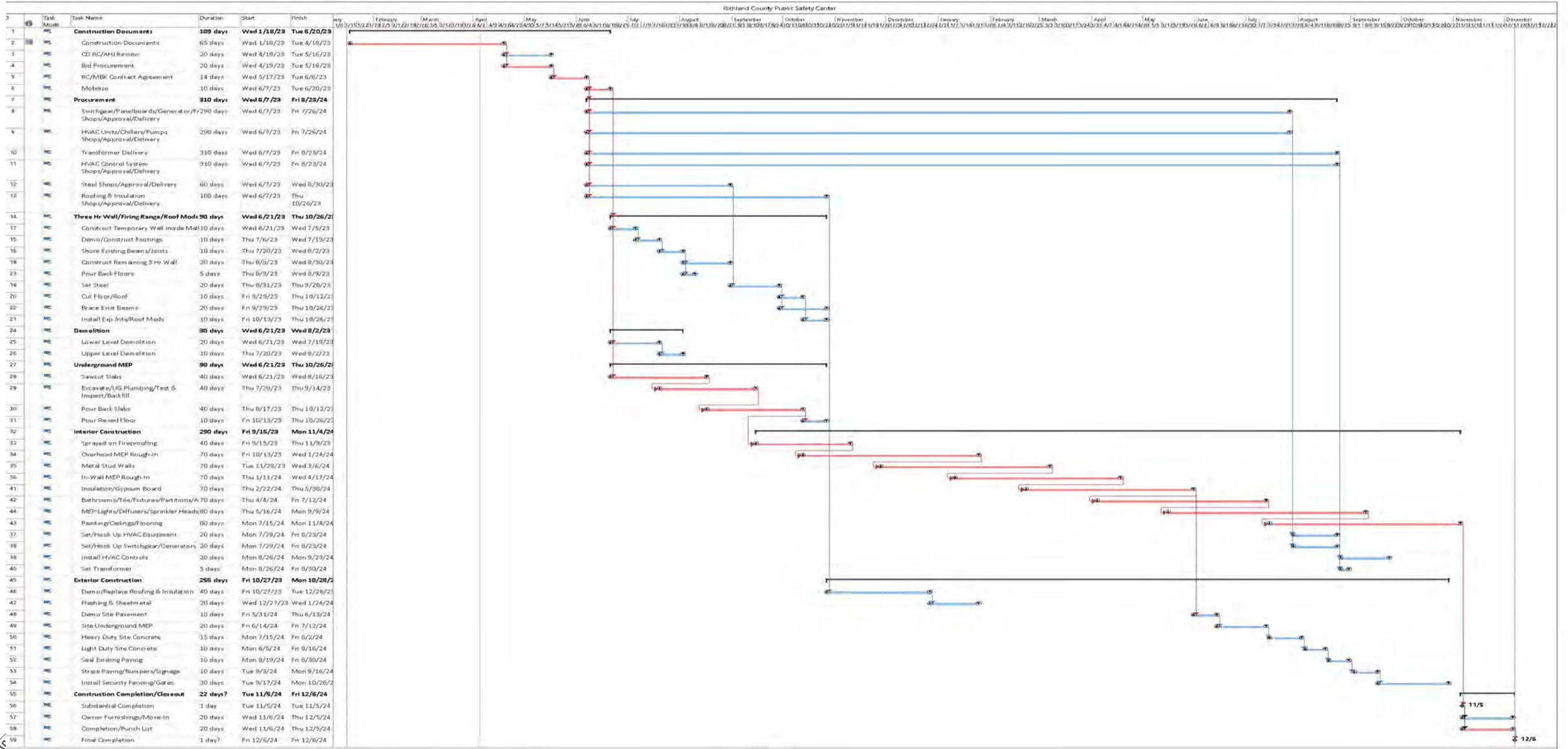
Bond issued in 2022 for \$40,000,000

Cost will be approximately \$47,829,623

Balance will be from SCEMD reimbursements
and previously allocated funds.



CURRENT PROJECTS



Questions?



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

Notes:

First Reading: October 3, 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 TRUCK TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.

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

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

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

WHEREAS, Project Truck (“Sponsor”), desires to establish an operations, logistics, and training center in the County (“Project”) consisting of taxable investment in real and personal property of not less \$38 million, and the creation of 185, 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, a public body corporate and politic under the laws of the State of South Carolina has, by an Inducement Resolution adopted on September 19, 2023 (“Resolution”), taken official action to identify the Project for the purposes of the FILOT Act and otherwise, and 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; and (iii) providing Infrastructure Credits and other incentives, 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;

(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.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: October 3, 2023
Second Reading: October 17, 2023
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF FEE AGREEMENT

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

BETWEEN

PROJECT TRUCK

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF JANUARY 1, 2024

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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

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

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name		
Project Location		
Tax Map No.		
FILOT		
<ul style="list-style-type: none"> • Phase Exemption Period 		
<ul style="list-style-type: none"> • Contract Minimum Investment Requirement 	\$38,000,000	
<ul style="list-style-type: none"> • Contract Minimum Jobs Requirement 	185	
<ul style="list-style-type: none"> • Investment Period 	5 years	
<ul style="list-style-type: none"> • Assessment Ratio 	6%	
<ul style="list-style-type: none"> • Millage Rate 		
<ul style="list-style-type: none"> • Fixed or Five-Year Adjustable Millage 	Fixed	
<ul style="list-style-type: none"> • Claw Back Information 	N/A	
Multicounty Park		
Infrastructure Credit		
<ul style="list-style-type: none"> • Brief Description 	40%	
<ul style="list-style-type: none"> • Credit Term 	10 years	
<ul style="list-style-type: none"> • Claw Back Information 	Percentage clawback of SSRC based on actual investment and job creation, compared with contract minimum investment and jobs, within 5-year investment period	
Other Information		

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into as of [], but effective, as of January 1, 2024, between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and Project Truck, an S corporation organized and existing under the laws of the State of Iowa (“*Sponsor*”).

WITNESSETH:

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

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

(c) The Sponsor has committed to establish a commercial enterprise (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$38 million and the creation of not less than 185 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 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 \$2,500,000 in the Project within five years of the Commencement Date.

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees as outlined in Section 8.8 of this Fee Agreement. 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 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 \$38 million.

“**Contract Minimum Jobs Requirement**” means not less than 185 full-time, jobs created by the Sponsor in the County in connection with the Project.

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

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

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

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

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

“**Economic Development Property**” means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-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, 2057, the Final Termination Date is expected to be January 15, 2059, which is the due date of the last FILOT Payment with respect to the Final Phase.

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

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

“**Infrastructure Credit**” means the credit provided to the Sponsor pursuant to Section 12-44-70 of the Act or Section 4-1-175 of the MCIP Act and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Infrastructure Credits are to be used for the payment of Infrastructure constituting real property, improvements and infrastructure before any use for the payment of Infrastructure constituting personal property, notwithstanding any presumptions to the contrary in the MCIP Act or otherwise.

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2028.

“**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, as amended, supplemented, or modified through the date hereof, between the County and Fairfield County, South Carolina, as may be amended.

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

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

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

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

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

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

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

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

“**Sponsor**” means [Project Truck] 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 June 6, 2023 and adopted an Inducement Resolution, as defined in the Act on [October 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 an operations, logistics, and training 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 six percent (6%), multiplied by

- (iii) A fixed millage rate equal to 550.2, 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, 2023.

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.

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

Section 4.4. Damage or Destruction of Economic Development Property.

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

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

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

Section 4.5. Condemnation.

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

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

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

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

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

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

**ARTICLE V
ADDITIONAL INCENTIVES**

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

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

[**Section 5.2. Other Incentives.** The County shall use its best efforts to assist the Sponsor in its negotiations with the South Carolina Department of Transportation for the installment of a new traffic light at the Real Property before the Project commences.]

**ARTICLE VI
CLAW BACK**

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

**ARTICLE VII
DEFAULT**

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

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

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

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

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

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

pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;

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

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

Section 7.2. Remedies on Default.

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

(i) terminate this Fee Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; or

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

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

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

ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS

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

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

Section 8.3. Indemnification Covenants.

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

(b) The County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a), above. The County shall provide a statement of the costs incurred in the response or defense, and the Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any 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 \$5,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

ARTICLE IX SPONSOR AFFILIATES

Section 9.1. *Sponsor Affiliates.* The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and

delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor Affiliate to the County.

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

ARTICLE X MISCELLANEOUS

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

IF TO THE SPONSOR:

[]

WITH A COPY TO (does not constitute notice):

Burr & Forman LLP
Attn: John F. Wall IV
1221 Main Street, Suite 1800
Columbia, SC 29201
jwall@burr.com

IF TO THE COUNTY:

Richland County, South Carolina
Attn: Richland County Economic Development Director
2020 Hampton Street
Columbia, South Carolina 29204
RUBLE.JEFF@richlandcountysc.gov

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
rayjones@parkerpoe.com

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

RICHLAND COUNTY ATTORNEY'S OFFICE

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

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

[PROJECT TRUCK]

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

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

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

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

[_____]

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

Date

Name of Entity
By: _____
Its: _____

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

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

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

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

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

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

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

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

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

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

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

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

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

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

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


RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA



Chair, Richland County Council

(SEAL)
ATTEST:



Clerk to County Council

EXHIBIT D (see Section 5.1)
DESCRIPTION OF INFRASTRUCTURE CREDIT

**40% OF THE FILOT PAYMENTS FOR EACH OF THE TEN (10) PROPERTY TAX YEARS BEGINNING WITH
THE [] TAX YEAR**

EXHIBIT E (see Section 6.1)
DESCRIPTION OF CLAW BACK

If the Sponsor fails to achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement by the end of the Investment Period, a claw back shall be paid to the County which is calculated as follows:

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

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

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

$$\text{Investment Achievement Percentage} = \text{Actual Investment Achieved} / \text{Contract Minimum Investment Requirement} \text{ [may not exceed 100\%]}$$

$$\text{Jobs Achievement Percentage} = \text{Actual New, Full-Time Jobs Created} / \text{Contract Minimum Jobs Requirement} \text{ [may not exceed 100\%]}$$

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

For example, and by way of example only, if the County granted \$1,000,000 in Infrastructure Credits, and \$30,000,000 had been invested at the Project and 60 jobs had been created by the end of the Investment Period, the Repayment Amount would be calculated as follows:

$$\text{Jobs Achievement Percentage} = 60/185 = 32.4\%$$

$$\text{Investment Achievement Percentage} = \$30,000,000/\$38,000,000 = 78.9\%$$

$$\text{Overall Achievement Percentage} = (32.4\% + 78.9\%)/2 = 55.65\%$$

$$\text{Claw Back Percentage} = 100\% - 55.65\% = 44.35\%$$

$$\text{Repayment Amount} = \$1,000,000 \times 44.35\% = \$443,500$$

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.

AND IT IS SO RESOLVED this ____ day of _____ 2023.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)

ATTEST:

Clerk to County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

**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 IDENTIFIED FOR THE TIME BEING AS PROJECT OREI; 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 identified for the time being as Project OREI (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 \$65,000,000, 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 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.

[End of Ordinance]

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

First Reading: October 17, 2023
Second Reading:
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF AGREEMENT

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

PROJECT OREI

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 OREI (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 \$65,000,000, 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 \$65,000,000 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, energy production or communications technology infrastructure, and expenditures on the eradication of blight (collectively, the "Non-Workforce Housing Public Infrastructure"), as well as that portion of the overall Project investment attributable to the construction of housing units with rental rates qualifying such units as "workforce housing" (collectively, the "Workforce Housing Public Infrastructure"). For purposes of this Agreement, "workforce housing" shall be defined as housing that is affordable to the occupant or occupants, as applicable, when applying no more than 30% of gross income of the occupant or occupants, as applicable, to housing costs, for those earning between 80% and 120% of AMI, as published by Fannie Mae, for the Project location of [_____], Columbia, South Carolina.

(b) In connection with the Project, the Company has committed with commercially reasonable efforts to invest in, or cause to be invested in, the Public Infrastructure as described on Exhibit B hereto ("Company Public Infrastructure"). The Company shall certify actual investment in the Company Public Infrastructure to the County on the Certification Date, by providing to the County's Economic Development Department (i) with respect to the Non-Workforce Housing Public Infrastructure portion of the Company Public Infrastructure, documentation, which documentation may include, without limitation, pay applications, invoices, and accounting logs, sufficient to reflect the Company's investment in the Non-Workforce Housing Infrastructure portion of the Company Public Infrastructure, and (ii) with respect to the Workforce Housing Public Infrastructure portion of the Company Infrastructure, documentation, which documentation may include, without limitation pay applications, invoices, accounting logs, rent rolls, and related documentation, sufficient to reflect the number of housing units comprising the Project that the Company is submitting as "workforce housing" for the purposes of Workforce Housing Public Infrastructure qualification (the "Certified Workforce Housing Unit Level") as well as the construction costs attributable to such units, all 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) On or before _____ of each year corresponding to each tax year for which the Company is entitled to a Public Infrastructure Credit (e.g., _____, 2025 corresponds to tax year 2026), the Company shall submit to the County Auditor an annual Public Infrastructure Credit certification, substantially in the form of Exhibit D hereto, reflecting the calculation of the Public Infrastructure Credit to which the Company is entitled for such tax year. Following receipt of such certification, 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, as may be adjusted pursuant to such certification (“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 E, 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, or caused to be invested in, 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

Fax: _____

with a copy to

Maynard Nexsen PC
Attn: Tushar V. Chikhliker
1230 Main Street, Suite 700 (29201)
Post Office Box 2426
Columbia, South Carolina (29202)
Phone: 803.540.2188
Fax: 803.727.1469

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 an amount 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 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

RICHLAND COUNTY ATTORNEY'S OFFICE

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

[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

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

PROJECT OREI

By: _____

Name: _____

Its: _____

[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

[To be inserted.]

EXHIBIT B (See Section 2.2)

DESCRIPTION OF COMPANY PUBLIC INFRASTRUCTURE

The Company Public Infrastructure includes Non-Workforce Housing Public Infrastructure and Workforce Housing Public Infrastructure, as listed below; provided, however, notwithstanding anything herein to the contrary, for purposes of this Agreement, aggregate Company Public Infrastructure shall not exceed \$12,500,000.

<u>Description</u>	<u>Budget</u>
Storm Drainage	\$1,041,073
Water (On-Site)	\$1,075,500
Sewer (On-Site)	\$313,790
Road Public Improvements	\$109,484
Sidewalks	\$350,000
Landscaping	\$600,000
Water (Off-Site)*	\$568,500.00
Construction costs associate with workforce housing	\$8,441,653
Total Public Infrastructure Costs	\$12,500,000

*Cost being incurred by master developer as a result of project moving forward

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, or caused to be 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 ; provided, however, notwithstanding anything herein to the contrary, for purposes of this Agreement, aggregate Company Public Infrastructure shall not exceed \$12,500,000.

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; provided further that such 50% Public Infrastructure Credit shall be subject to reduction for any year of the Credit Term for which the Certified Workforce Housing Unit Level is not maintained, as set forth in greater detail, and to the extent required by, Exhibit D hereto.

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 10th 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 2.3)

PUBLIC INFRASTRUCTURE CREDIT CERTIFICATION

[To be inserted.]

EXHIBIT E (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



**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RESOLUTION

**A RESOLUTION TO APPOINT AND COMMISSION
KIMBERLY A. BRYANT AS CODE ENFORCEMENT OFFICER
FOR THE PROPER SECURITY, GENERAL WELFARE,
AND CONVENIENCE OF RICHLAND COUNTY**

WHEREAS, the Richland County Council, in the exercise of its general police power, is empowered to protect the health and safety of the residents of Richland County; and

WHEREAS, the Richland County Council is further authorized by Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended, to appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the County;

NOW, THEREFORE, BE IT RESOLVED THAT: Kimberly A. Bryant is hereby appointed and commissioned Code Enforcement Officer of Richland County for the purpose of providing for the proper security, general welfare, and convenience of the County, replete with all the powers and duties conferred by law upon constables in addition to such duties as may be imposed upon her by the governing body of this County, including the enforcement of the County's hazardous materials and fire prevention regulations and the use of an ordinance summons, and with all the powers and duties conferred pursuant to the provisions of Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended. Provided, however, Kimberly A. Bryant shall not perform any custodial arrests in the exercise of her duties as code enforcement officer. This appointment shall remain in effect only until such time as Kimberly A. Bryant is no longer employed by Richland County as a code enforcement officer.

ADOPTED THIS 17th DAY OF October, 2023.

Overture E. Walker - Chair
Richland County Council District 8

ATTEST this 17th day of October, 2023

Anette A. Kirylo
Richland County Clerk to Council



**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RESOLUTION

**A RESOLUTION TO APPOINT AND COMMISSION
DANIEL F. LEYDEN AS CODE ENFORCEMENT OFFICER
FOR THE PROPER SECURITY, GENERAL WELFARE,
AND CONVENIENCE OF RICHLAND COUNTY**

WHEREAS, the Richland County Council, in the exercise of its general police power, is empowered to protect the health and safety of the residents of Richland County; and

WHEREAS, the Richland County Council is further authorized by Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended, to appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the County;

NOW, THEREFORE, BE IT RESOLVED THAT: Daniel F. Leyden is hereby appointed and commissioned Code Enforcement Officer of Richland County for the purpose of providing for the proper security, general welfare, and convenience of the County, replete with all the powers and duties conferred by law upon constables in addition to such duties as may be imposed upon her by the governing body of this County, including the enforcement of the County's hazardous materials and fire prevention regulations and the use of an ordinance summons, and with all the powers and duties conferred pursuant to the provisions of Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended. Provided, however, Daniel F. Leyden shall not perform any custodial arrests in the exercise of her duties as code enforcement officer. This appointment shall remain in effect only until such time as Daniel F. Leyden is no longer employed by Richland County as a code enforcement officer.

ADOPTED THIS 17th DAY OF October, 2023.

Overture E. Walker - Chair
Richland County Council District 8

ATTEST this 17th day of October, 2023

Anette A. Kirylo
Richland County Clerk to Council



**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

RESOLUTION

**A RESOLUTION TO APPOINT AND COMMISSION
DONCHE RICHARDSON AS CODE ENFORCEMENT OFFICER
FOR THE PROPER SECURITY, GENERAL WELFARE,
AND CONVENIENCE OF RICHLAND COUNTY**

WHEREAS, the Richland County Council, in the exercise of its general police power, is empowered to protect the health and safety of the residents of Richland County; and

WHEREAS, the Richland County Council is further authorized by Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended, to appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the County;

NOW, THEREFORE, BE IT RESOLVED THAT: Donche Richardson is hereby appointed and commissioned Code Enforcement Officer of Richland County for the purpose of providing for the proper security, general welfare, and convenience of the County, replete with all the powers and duties conferred by law upon constables in addition to such duties as may be imposed upon them by the governing body of this County, including the enforcement of the County's public works regulations and refuse control management regulations and the use of an ordinance summons, and with all the powers and duties conferred pursuant to the provisions of Section 4-9-145 of the Code of Laws of South Carolina 1976, as amended. Provided, however, Donche Richardson shall not perform any custodial arrests in the exercise of their duties as code enforcement officer. This appointment shall remain in effect only until such time as Donche Richardson is no longer employed by Richland County to enforce the County's public works and refuse control management regulations.

ADOPTED THIS 17th DAY OF October, 2023.

Overture E. Walker - Chair
Richland County Council District 8

ATTEST this 17th day of October, 2023

Anette A. Kirylo
Richland County Clerk to Council