

Lancaster County Council Regular Meeting Agenda

Monday, October 26, 2015

County Administration Building, County Council Chambers
101 N. Main Street
Lancaster, SC 29720

1. **Call to Meeting to Order – Chairman Bob Bundy** 6:00 p.m.
2. **Welcome and Recognition – Chairman Bob Bundy**
3. **Pledge of Allegiance and Invocation – Council Member Brian Carnes**
4. **Approval of the agenda** *[deletions and additions of non-substantive matter]*
5. **Executive Session** *[30 minute time limit]*
 - a. Presentation and discussion of an economic development expansion – SC Code §30-4-70(a)(4)
Motions, if any, arising from executive session
6. **Call Meeting Back to Order – Chairman Bob Bundy** 6:30 p.m.
7. **Citizen Comments** *[Speakers are allowed approximately 3 minutes. If there are still people on the list who have not spoken at the end of thirty (30) minutes, Council may extend the citizen comments section or delay it until a later time in the agenda]*
8. **Special Appointment**
 - a. Appointment of Deputy Clerk to Council. *Steve Willis – pg. 5*
9. **Special Presentations:**
 - a. Thumbs Up to Teresa Willis – presented by Chairman Bob Bundy and Hal Hiott
 - b. Thumbs Up to Scott Dunham and David Demby, EMS - presented by Chairman Bob Bundy and Clay Catoe
10. **Consent Agenda**
 - a. **Minutes of the following meetings:**
 - September 28, 2015 Regular Meeting – *pgs. 6-13*
 - October 12, 2015 Regular Meeting – *pgs. 14-20*

11. Non-Consent Agenda

Resolution

a. Resolution 0899-R2015 – Fee Agreement regarding Project Streetcar

A Resolution to state the commitment of Lancaster County to enter into a fee agreement with Project Streetcar, and/or its designee or nominee; to provide the general terms of the fee agreement including the provision of a special source revenue credit; to identify the project for purposes of the fee in lieu of tax simplification act; to state the commitment of Lancaster County to place project property in a multi-county park; and to provide for other matters related thereto. *John Weaver – pgs. 21-24*

Ordinance Readings

b. 2nd Reading of Ordinance 2015-1348 Amendments to the 2010 Nutramax Incentive, Fee and Infrastructure Credit Agreements

Ordinance Title: An ordinance to authorize the execution and delivery of Amendments to a 2010 Incentive Agreement, Fee Agreement, and Infrastructure Credit Agreement by and among Lancaster County, South Carolina, Nutramax Manufacturing Inc., Nutramax Laboratories, Inc., Nutramax Properties, LLC, Nutramax Land Holdings, Inc., The City of Lancaster, and the Lancaster County Economic Development Corporation; and to provide for other matters related thereto. *(Administration Committee – Favorable) Council approved 1st Reading 7-0 at the October 12th meeting. John Weaver – pgs. 25-43*

c. 2nd Reading of Ordinance 2015-1377 regarding the transfer of a fee in lieu of tax arrangement between Lancaster County and the Gillette Company

Ordinance Title: An Ordinance authorizing and approving the transfer of a fee in lieu of tax arrangement between Lancaster County, South Carolina, and the Gillette Company, as successor to Duracell Inc., under Title 4, Chapter 29 of the Code of Laws of South Carolina 1976, as amended, to an arrangement under Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended; authorizing and approving the assignment of three fee in lieu of tax arrangements between the Gillette Company and the county to Duracell Manufacturing, Inc.; and providing for other matters related thereto. *(Administration Committee – Favorable). Council approved 1st Reading 7-0 at the October 12th meeting. John Weaver – pgs. 44-94*

d. 2nd Reading of Ordinance 2015-1352 Multi-County Park Agreement between Lancaster County and Chesterfield County amendment needed

Ordinance Title: An Ordinance to authorize and approve an amended and restated Master Multi-County park agreement between Chesterfield County, South Carolina and Lancaster County, South Carolina; and to provide for other matters related thereto. *Council approved 1st Reading 7-0 at the July 27, 2015 meeting. John Weaver – pgs. 95-111*

e. **1st Reading of Ordinance 2015-1378 regarding Ansley Park Development (portion of PDD 21)**

Ordinance Title: An Ordinance to approve a Development Agreement between Forestar (USA) Real Estate Group Inc., and the County of Lancaster relating to the Ansley Park Development; to authorize certain county officials to execute and deliver the Development Agreement; and to provide for other matters related thereto. *(Favorable – I&R Committee) John Weaver – pgs. 112-139*

f. **1st Reading of Ordinance 2015-1379 regarding the Fee Agreement for Movement Mortgage**

Ordinance Title: An Ordinance to authorize the execution and delivery of a fee agreement by and among Lancaster county and Movement Mortgage, LLC and TKC CCII, LLC providing for the payment of a fee-in-lieu of taxes and the provision of special source revenue credits; to express the intention of council to provide monies to the economic development fund; and to provide for other matters related thereto. *John Weaver – pgs. 140-173*

g. **1st Reading of Ordinance 2015-1380 regarding a Infrastructure Credit and Incentive Agreement with Project Seating**

Ordinance Title: An Ordinance to authorize the execution and delivery of an infrastructure credit and incentive agreement by and between Lancaster County, South Carolina, and Project Seating providing for special source revenue credits and the sale to project seating of approximately 15.58 acres of land located at 3888 Chester Highway (S.C. 9), tax parcel no. 0066-00-033.00; and to provide for other matters related thereto. *(Favorable – Administration Committee) John Weaver – pgs. 174-197*

12. Discussion and Action Items

- a. Sun City Carolina Lakes townhouse build and condo out question – Ordinance 631. *John Weaver – pgs. 198-205*
- b. Impact Fee Study Information. *Penelope Karagounis and Robby Moody – pgs. 206-241*
- c. Fire Trucks/Public Works Facility cost estimates for bond. *Steve Willis – pgs. 242-246*
- d. Sexual Assault Justice Initiative Grant (100% - no local match). *Steve Willis – pgs. 247-248*
- e. 2015 Department of Public Safety Grant (100% - no local match). *Sheriff Faile – pgs. 249-251*
- f. Update regarding the bridge on Gilroy Drive in Regent Park Subdivision into the County Road System. *Steve Willis – pg. 252*
- g. Lancaster HOME Consortium board makeup. *Steve Willis – pgs. 253*
- h. Unified Development Ordinance (UDO) rewrite update. *Penelope Karagounis – pgs. 254*
- i. Announcement regarding the Catawba Regional Blueways grant award. *Penelope Karagounis – pgs. 255-259*
- j. Rock Hill, Fort Mill, Area Transportation Study (RFATS) Technical Committee Update. *Penelope Karagounis – pgs. 260*
- k. Monthly Finance Report. *Kimberly Hill – pgs. 261-274*

I. Committee Reports

1. Administration – Chairman Brian Carnes
2. Public Safety – Chairman Steve Harper
3. Infrastructure and Regulation (I&R) – Chairman Larry Honeycutt

13. Status of items tabled, recommitted, deferred or held

- a. 3rd Reading of Ordinance 2015-1367 regarding modifications to the Edenmoor Improvement District (now known as Walnut Creek)
- b. 3rd Reading of Ordinance 2015-1368 to authorize and provide for issuance and sale of Walnut Creek Improvement District Revenue Bonds and other related matters
- c. 2nd Reading of Ordinance 2015-1366 regarding the Fee Agreement between Lancaster County and LCI-Lineberger Construction, Inc.
- d. 3rd Reading of Ordinance 2015-1365 to rezone property of Reid Wilkerson/NBI Investments, III, LLC (to be brought back to Council November 9, 2015)
- e. 1st Reading of Ordinance 2015-1369 Avondale PDD
- f. 1st Reading of Ordinance 2015-1370 Avondale Development Agreement

14. Miscellaneous Reports and Correspondence – pgs. 275-277

- a. Time Warner Cable
- b. Lancaster County Airport report

15. Calendar of Events – pg.278

16. Citizens Comments *[if Council delays until end of meeting]*

17. Executive Session – continued

- b. Potential litigation - SC Code § 30-4-70(a)(2)

18. Adjournment

Anyone requiring special services to attend this meeting should contact 285-1565 at least 24 hours in advance of this meeting.

*Lancaster County Council agendas are posted at the Lancaster County Administration Building and are available on the Website:
www.mylancastersc.org*

Agenda Item Summary

Ordinance # / Resolution#:	Action Item
Contact Person / Sponsor:	Steve Willis
Department:	Administration
Date Requested to be on Agenda:	October 26, 2015

Issue for Consideration:

Appointment of Brenisha Wells as Deputy County Clerk to Council.

Points to Consider:

This is an appointment pursuant to County Code section 2-26:

Sec. 2-26. - Clerk to council.

The council shall appoint a person, not a member of the council, to serve as clerk for an indefinite term. The clerk will record all proceedings of the council; deliver copies of the minutes of each council meeting to all members prior to the next regular council meeting; keep a register of all proposed ordinances and resolutions, assigning them a number and arranging them in order of introduction; render any needed assistance to members of the council in typing and preparation of reports, recommendations, ordinances, resolutions, directives and correspondence; and perform such other duties as the county administrator assigns.

Funding and Liability Factors:

N/A.

Council Options:

Approve or reject the nomination.

Staff Recommendation:

Approve the nomination of Brenisha Wells as Deputy Clerk to Council for the remainder of this Council term.

Committee Recommendation:

N/A

Members of Lancaster County Council

Bob Bundy, District 3, Chairman

Brian Carnes, District 7, Vice Chairman

Steve Harper, District 5, Secretary

Jack Estridge, District 6

Larry Honeycutt, District 4

Larry McCullough, District 1

Charlene McGriff, District 2

DRAFT

Minutes of the Lancaster County Council Regular Meeting

101 N. Main Street, Lancaster, SC 29720

Monday, September 28, 2015

Council Members present were Bob Bundy, Jack Estridge, Brian Carnes, Larry Honeycutt, Larry McCullough, Steve Harper and Charlene McGriff. Also present was Steve Willis, Debbie Hardin, Virginia Burgess, Penelope Karagounis, Veronica Thompson, John Weaver, the press and spectators. A quorum of Lancaster County Council was present for the meeting.

The following press was notified of the meeting by e-mail or by fax in accordance with the Freedom of Information Act: *The Lancaster News, Kershaw News Era, The Rock Hill Herald, The Fort Mill Times*, Cable News 2, Channel 9 and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building the required length of time and on the county website.

Call Regular meeting to Order

Chairman Bob Bundy called the regular meeting of Council to order at 6:30 p.m.

Welcome and recognition/pledge of allegiance and invocation

Chairman Bob Bundy welcomed everyone to the meeting, and announced the press notification was met. Council Member Steve Harper led the Pledge of Allegiance to the American Flag and provided the invocation.

Approval of the agenda

Councilman Brian Carnes requested that Non-Consent Agenda Item 8e – appointment of Jane Tanner to the Library Board, be withdrawn from the agenda.

MOTION was made by Brian Carnes to approve the agenda as amended, withdrawing item 8e. SECONDED by Larry McCullough. Passed 7-0.

DRAFT

Citizen Comments

The following citizens signed up to speak regarding the Avondale PDD and Development Agreement:

Janel Withers, 10055 Harrisburg Road, Indian Land, SC. (handed in a petition attached as schedule A.)
Richard Garal, 4122 Buckingham Drive, Indian Land, SC.
Andrew Eagle, 8307 University Executive Park Drive, Charlotte, NC.
Ken Hawfield, 10121 Harrisburg Road, Indian Land, SC.
Boe Clark, 11525 Wheat Ridge Road, Charlotte, NC.
Ben Johnson, 306 College Avenue, Rock Hill, SC.
Kelly Harvell, 9858 Calvin Hall Road, Indian Land, SC.
Susan Harvell, 9858 Calvin Hall Road, Indian Land, SC. (Deferred time when called upon by the Chairman to render comments)
Kim Simmons, 409 Willow Street, Stanley, NC. (Deferred time when called upon by the Chairman to render comments)
Dean Withers, 10055 Harrisburg Road, Indian Land, SC.
Eugenia Owsley Fowler, Midlothian, VA.
Karen Patterson, 9509 Possum Hollow Road, Indian Land, SC.
Bob Jowles, 4240 Rea Road, Charlotte NC.
Ben Levine, 5062 Terrier Lane, Indian Land, SC.
Mike O'Brien, 936 Barrow Road, Waxhaw, NC., and 10005 Charlotte Hwy, Indian Land, SC.
John Hudson, 10026 Harrisburg Road, Indian Land, SC.
Nick Kerzman, 13108 Wilburn Park Lane, Indian Land, SC.
Alan Patterson, 206 Patterson Lane, Indian Land, SC.
Karen Saint-Joy, 4110 Buckingham Drive, Indian Land, SC.
Gary Holland, 8728 Collins Road, Indian Land, SC. (Deferred time when called upon by the Chairman to render comments)
Drew Rhodes, 5018 Karriker Court, Indian Land, SC.
Eric Notheison, 19034 Bridge Mill Trail, Indian Land, SC.
Ben M. Smith, 442 Lakemont, Chapin SC.
Emma Little John, 115 D. East Park Avenue, Charlotte, NC.
Yates Murr, 115 D. East Park Avenue, Charlotte, NC. (Deferred time when called upon by the Chairman to render comments)
Gary Belk, 8733 Calvin Hall Lane, Charlotte, NC.
Kathy Garner, 8336 Lake Providence Drive, Mathews, NC, Fort Mill, SC.

DRAFT

Peter Tatge, 3475 Lakemont Boulevard, Fort Mill, SC.

Richard Dole, 3056 Drummond Avenue, Indian Land, SC. (Deferred time when called upon by the Chairman to render comments)

J.R. Wilt, 903 Rock Hill Highway, Lancaster, SC.

Consent Agenda

a. Minutes of the September 14, 2015 Workshop and Regular Meeting

b. **3rd Reading of Ordinance 2015-1364 rezoning property of Gary C. Sowell**

Ordinance Title: An Ordinance to amend the official zoning map of Lancaster County so as to rezone property owned by Gary C. Sowell and the Town of Kershaw represented by Sandhill's Medical Foundation, located 100 feet Northeast of the intersection of Gold Mine Highway and Edwards Avenue along the eastern side of Gold Mine Highway from R-45A, Rural Residential/Intense Agricultural District to B-3 General Commercial District; and to provide for other matters related thereto.

c. **2nd Reading of Ordinance 2015-1373 rezoning of 3888 Chester Highway**

Ordinance Title: An Ordinance to amend the official zoning map of Lancaster County so as to rezone property owned by Lancaster County, represented by Steve Willis, Lancaster County Administrator, located at 3888 Chester Highway from B-2, Community Business District to I-1, Light Industrial District; and to provide for other matters related thereto.

MOTION was made by Larry Honeycutt to approve the consent agenda items a, b, and c. above. SECONDED by Charlene McGriff. Passed 7-0.

Non Consent Agenda

Resolutions

a. Resolution 0890-R2015 – a Resolution approving the 2015 Assessment Roll for the Edenmoor Improvement District, Lancaster County, South Carolina.

MOTION was made by Charlene McGriff to approve Resolution 0890-R2015. SECONDED by Brian Carnes. Passed 7-0.

b. Resolution 0893-R2015 – a Resolution approving the 2015 Assessment Roll for the Edgewater II Improvement District, Lancaster County, South Carolina

MOTION was made by Larry Honeycutt to approve Resolution 0893-R2015. SECONDED by Steve Harper.

Brian Carnes moved to amend Resolution 0893-R2015 to correct the typographical language in Paragraph 3 to read as follows: "The County Council shall update the Assessment Roll *each year* to reflect....." SECONDED by Larry McCullough. Passed 7-0.

Council voted 7-0 to approve Resolution 0893-R2015 as amended.

Ordinance Readings

DRAFT

2nd Reading of Ordinance 2015-1372 to rezone property of Bradley J. Mullis

Ordinance Title: An Ordinance to amend the official zoning map of Lancaster County so as to rezone property of Bradley J. Mullis, located 550 feet south of the intersection of Whittle Street and Shiloh Unity Road from R-45B, Rural Residential/Business/Agricultural, District to B-3, General Commercial District; and to provide for other matters related thereto.

MOTION was made by Charlene McGriff to approve 2nd Reading of Ordinance 2015-1372. SECONDED by Brian Carnes. Passed 7-0.

2nd Reading of Ordinance 2015-1375 a budget amendment for the Lancaster County Transportation Committee (CTC)

Ordinance Title: An Ordinance to amend Ordinance No. 2015-1356, relating to the appropriation of funds and the approval of a detailed budget for Lancaster County for the fiscal year beginning July 1, 2015 and ending June 30, 2016 (FY 2015-2016), to further provide for revenues and expenditures during the fiscal year; and to provide for other matters related thereto.

MOTION was made by Charlene McGriff to approve 2nd Reading of Ordinance 2015-1375. SECONDED by Brian Carnes.

Steve Willis noted that this Ordinance has changed since 1st Reading, with an addition of the \$100,000 insurance deductible regarding the cybersecurity and the cost of the EMS garage replacement from the recent windstorm.

MOTION was made by Charlene McGriff to amend 2nd Reading of Ordinance 2015-1375 to include the \$100,000 insurance deductible and EMS garage. SECONDED by Brian Carnes. Passed 7-0.

Council voted 7-0 to approve 2nd Reading of Ordinance 2015-1375 as amended.

2nd Reading of Ordinance 2015-1371 creating the Lancaster County Department of Economic Development

Ordinance Title: An Ordinance to authorize and approve the creation of a new county department to be known as the Lancaster County Department of Economic Development.

MOTION was made by Larry Honeycutt to approve 2nd Reading of Ordinance 2015-1371. SECONDED by Steve Harper. Passed 6-1. Jack Estridge opposed.

DRAFT

2nd Reading of Ordinance 2015-1376 regarding a budget amendment for the Department of Economic Development

Ordinance Title: An Ordinance to amend Ordinance No. 2015-1356 relating to the appropriation of funds and the approval of a detailed budget for the Lancaster County Department of Economic Development for the remainder of this fiscal year ending June 30, 2016.

MOTION was made by Larry Honeycutt to approve 2nd Reading of Ordinance 2015-1376.
SECONDED by Charlene McGriff. Passed 6-1. Jack Estridge opposed.

{68 people were in attendance of the meeting} Public Hearing and 2nd Reading of Ordinance 2015-1367 regarding modifications to the Edenmoor Improvement District (now known as Walnut Creek)

Ordinance Title: An Ordinance to authorize certain modifications to the Edenmoor Improvement District and the existing Assessment Roll related thereto, including changing references therein to the Walnut Creek Improvement District, subdividing such improvement district to relate to certain parcels or areas therein and approving revised Assessment Rolls relating to such parcels or areas; and to provide for other matters relating thereto.

Chairman Bundy called for the Public Hearing on this matter. No one came forward to speak during the public hearing.

MOTION was made by Brian Carnes to approve 2nd Reading of Ordinance 2015-1367 to reflect the changes as shown in the 2nd reading version included in the agenda package.
SECONDED by Larry McCullough. Passed 7-0.

John Weaver noted for the record that this Ordinance has changed since the 1st Reading and an amendment will need to be made in the form of a motion to accept the changes as found in the Ordinance in the agenda package.

MOTION was made by Charlene McGriff to amend 2nd Reading of Ordinance 2015-1367.
SECONDED by Larry McCullough. Passed 7-0.

Council voted 7-0 to approve 2nd Reading of Ordinance 2015-1367 as amended.

{68 people were in attendance of the meeting} Public Hearing and 2nd Reading of Ordinance 2015-1368 to authorize and provide for issuance and sale of Walnut Creek Improvement District Revenue Bonds and other related matters

An Ordinance to authorize and provide for the issuance and sale of not to exceed \$12,000,000 principal amount Walnut Creek Improvement District Assessment Refunding Revenue Bonds, Series 2015a-1; to limit the payment of the bonds solely to the assessments imposed on certain designated parcels within the Walnut Creek Improvement District; to

DRAFT

provide for the execution of a Master Trust Indenture, First Supplemental Indenture thereto, contract of purchase and other related documents for the Series 2015a-1 bonds, and an amended and restated Master Trust Indenture and one or more supplements thereto related to the series 2006 bonds; to make other covenants and agreements in connection with the foregoing; and to provide for other matters relating thereto.

Chairman Bundy called for the Public Hearing on this matter. No one came forward to speak during the public hearing.

MOTION was made by Brian Carnes to approve 2nd Reading of Ordinance 2015-1368. SECONDED by Larry McCullough.

John Weaver noted for the record that this Ordinance has changed since the 1st Reading and an amendment will need to be made in the form of a motion to accept the changes as found in the Ordinance in the agenda package.

MOTION was made by Charlene McGriff to amend 2nd Reading of Ordinance 2015-1368. SECONDED by Larry McCullough. Passed 7-0.

Council voted 7-0 to approve 2nd Reading of Ordinance 2015-1368 as amended.

1st Reading of Ordinance 2015-1369 Avondale PDD

Ordinance Title: An Ordinance to establish the Avondale mixed use Planned Development District (PDD-27); to approve the master plan for the development of the PDD-27 property; to provide the regulations that will apply to the development of the PDD-27 property; and to provide for other matters related thereto.

Peter Tatge from ESP Associates gave a PowerPoint presentation (attached as schedule C).

Penelope Karagounis and Alex Moore of the Planning Department spoke regarding the outstanding deficiencies with the Avondale Development.

Council discussed sending this item and the 1st Reading of Ordinance 2015-1370 back to the Planning Department for further review and recommendations.

MOTION was made by Brian Carnes to remand Ordinance 2015-1369 back to Planning Commission. SECONDED by Larry McCullough. Passed 6-1. Bob Bundy opposed.

1st Reading of Ordinance 2015-1370 Avondale Development Agreement

Ordinance Title: An Ordinance to approve a Development Agreement between Sinacori Builders, LLC, and the County of Lancaster relating to the Avondale Development; to authorize certain county officials to execute and deliver the Development Agreement; and to provide for

DRAFT

other matters related thereto.

MOTION was made by Larry McCullough to remand Ordinance 2015-1370 back to Planning Commission. SECONDED by Larry Honeycutt. Passed 7-0. Bob Bundy opposed.

Discussion and Action Items

Riverside Fire Department Assistance to Fire Firefighters Grant

Darren Player discussed that Riverside Fire Department received an award for their Assistance to Firefighters Grant Program (AFG) application. The Fire Commission voted favorably to forward this request to the Public Safety Committee. This is a \$42,721 grant, with a 5% match by the county for \$2,219 and the federal share of \$42,592. The equipment to be purchased includes 1 dual head mobile 800 MHz radio; 3 single head mobile 800 MHz radios; 10 portable 800 MHz radios along with one-year subscription costs for the radios to be allowed access to the Palmetto 800 radio system at a rate of \$19 per month per radio unit. The item was recommended favorably by the Infrastructure and Regulation Committee.

MOTION was made by Larry McCullough to approve this grant. SECONDED by Larry Honeycutt. Passed 7-0.

Dave Lyle Boulevard Extension discussion

Councilman Bundy noted at the last Council meeting Council Members had requested a copy of the information regarding the Winthrop Study. Chairman Bundy is seeking Council's support in talking with the York County Larry Honeycutt noted that it was a tremendous opportunity for the southern part of the county and encouraged Council to support. Charlene McGriff wanted to know the steps moving forward, who would be at the table, how the partnership would work and the overall plan.

Brian Carnes suggested that Council support the Chairman in discussing with York County by signing a Resolution at the next meeting.

Reassessment update

Brad Carnes, County Assessor reported to Council that the Reassessment process is underway. The fieldwork is being completed at this time and they will be updating cost tables. Mr. Carnes noted the Citizens Guide to Reassessment would be placed on the website for information.

Monthly budget report

Kimberly Hill discussed the budget report for month ending August 31, 2015. Steve Harper requested that tracking revenue from building permits be placed in the report in the future.

DRAFT

Executive Session

Larry Honeycutt made a MOTION to go into Executive Session. SECONDED by Steve Harper. Passed 7-0.

Brian Carnes made a MOTION to come out of Executive Session. SECONDED by Charlene McGriff. Passed 7-0.

Larry McCullough moved that the Administrator be authorized to enter into negotiations with Bearing Resources, Inc., to serve as the county's interim Economic Development Director for a period of ninety (90) days from the contract date. SECONDED by Charlene McGriff. Passed 7-0.

Adjournment

Larry Honeycutt made a MOTION to adjourn. SECONDED by Charlene McGriff. Passed 7-0.

Respectfully Submitted:

Approved by Council, October 26, 2015

Debbie C. Hardin
Clerk to Council

Steve Harper, Secretary

DRAFT

Members of Lancaster County Council
Bob Bundy, District 3, Chairman
Brian Carnes, District 7, Vice Chairman
Steve Harper, District 5, Secretary
Jack Estridge, District 6
Larry Honeycutt, District 4
Larry McCullough, District 1
Charlene McGriff, District 2

Minutes of the Lancaster County Council Regular Meeting

101 N. Main Street, Lancaster, SC 29720

Monday, October 12, 2015

Council Members present were Bob Bundy, Jack Estridge, Brian Carnes, Larry Honeycutt, Larry McCullough, Steve Harper and Charlene McGriff. Also present was Steve Willis, Debbie Hardin, Brenisha Wells, Penelope Karagounis, Veronica Thompson, John Weaver, the press and spectators. A quorum of Lancaster County Council was present for the meeting.

The following press was notified of the meeting by e-mail or by fax in accordance with the Freedom of Information Act: *The Lancaster News, Kershaw News Era, The Rock Hill Herald, The Fort Mill Times*, Cable News 2, Channel 9 and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building the required length of time and on the county website.

Call Regular meeting to Order

Chairman Bob Bundy called the regular meeting of Council to order at 6:30 p.m.

Welcome and recognition/pledge of allegiance and invocation

Chairman Bob Bundy recognized Mr. Michael Trotter as the interim Economic Development Director. He also recognized Ms. Brenisha Wells as the Deputy Clerk to Council.

Chairman Bob Bundy welcomed everyone to the meeting, and announced the press notification was met. Council Member Jack Estridge led the Pledge of Allegiance to the American Flag and provided the invocation.

Approval of the agenda

Councilman Larry McCullough requested that the discussion/action item 8c, Sun City Carolina Lakes townhouse and condo build out question – Ordinance 631, be postponed.

Brian Carnes moved to approve the agenda as amended (postponing the discussion/action item 8c, Sun City Carolina Lakes townhouse and condo build out question – Ordinance 631).
SECONDED by Charlene McGriff. Passed 7-0.

Citizen Comments

No citizens signed up to speak.

DRAFT

Consent Agenda

a. **Minutes of the following meeting:** September 18, 2015 Special Meeting

b. **3rd Reading of Ordinance 2015-1373 rezoning of 3888 Chester Highway**

Ordinance Title: An Ordinance to amend the official zoning map of Lancaster County so as to rezone property owned by Lancaster County, represented by Steve Willis, Lancaster County Administrator, located at 3888 Chester Highway from B-2, Community Business District to I-1, Light Industrial District; and to provide for other matters related thereto.

c. **3rd Reading of Ordinance 2015-1372 to rezone property of Bradley J. Mullis**

Ordinance Title: An Ordinance to amend the official zoning map of Lancaster County so as to rezone property of Bradley J. Mullis, located 550 feet south of the intersection of Whittle Street and Shiloh Unity Road from R-45B, Rural Residential/Business/Agricultural, District to B-3, General Commercial District; and to provide for other matters related thereto.

MOTION was made by Larry Honeycutt to approve the consent agenda items a, b, and c. above.
SECONDED by Charlene McGriff. Passed 7-0.

Non-Consent Agenda

Resolutions

0896-R2015 - A Resolution authorizing the Sheriff's Office to dispose of abandoned or recovered property through donation to an eleemosynary (non-profit) corporation.

Steve Willis noted the Sheriff is requesting this Resolution in order to dispose of abandoned property, such as bicycles.

Larry Honeycutt moved to approve Resolution 0896-R2015. SECONDED by Brian Carnes.
Passed 7-0.

0897-R2015 – A Resolution authorizing the County Council Chair to consult with the York County Council Chair regarding the Dave Lyle Boulevard (SC Highway 122) Expansion.

Charlene McGriff moved to approve Resolution 0897-R2015. SECONDED by Steve Harper. Passed 7-0.

Councilman Larry McCullough requested a copy of the entire November 2014 Dave Lyle Boulevard presentation. The information in the package was a copy of the partial presentation.

0898-R2015 – A Resolution declaring surplus three (3) ambulances pursuant to Lancaster County Code Section 2-288; Authorizing their sale pursuant to Section 2-288; and reserving the proceeds from the sale of the ambulances.

Brian Carnes moved to approve Resolution 0898-R2015. SECONDED by Charlene McGriff. Passed 7-0.

Councilman Carnes thanked Clay Catoe, EMS Director and the Finance staff for looking ahead to the future regarding the sale of these ambulances.

Ordinance Readings

Public Hearing and 3rd Reading of Ordinance 2015-1375 a budget amendment for the Lancaster County Transportation Committee (CTC) , EMS Garage and SCAC Deductible
Ordinance Title: An Ordinance to amend Ordinance No. 2015-1356, relating to the appropriation of funds and the approval of a detailed budget for Lancaster County for the fiscal year beginning July 1, 2015 and ending June 30, 2016 (FY 2015-2016), to further provide for revenues and expenditures during the fiscal year; and to provide for other matters related thereto.

Councilman Bundy called for a public hearing regarding this Ordinance. There were 20 people in audience. No one came forward with comments.

MOTION was made by Brian Carnes to approve 3rd Reading of Ordinance 2015-1375. SECONDED by Charlene McGriff. Passed 6-1. Jack Estridge opposed.

3rd Reading of Ordinance 2015-1371 creating the Lancaster County Department of Economic Development

Ordinance Title: An Ordinance to authorize and approve the creation of a new county department to be known as the Lancaster County Department of Economic Development.

MOTION was made by Larry Honeycutt to approve the 3rd Reading of Ordinance 2015-1371. SECONDED by Charlene McGriff. Passed 7-0.

Public Hearing and 3rd Reading of Ordinance 2015-1376 regarding a budget amendment for the Department of Economic Development

Ordinance Title: An Ordinance to amend Ordinance No. 2015-1356 relating to the appropriation of funds and the approval of a detailed budget for the Lancaster County Department of Economic Development for the remainder of this fiscal year ending June 30, 2016.

Councilman Bundy called for a public hearing regarding this Ordinance. There were 20 people in audience. No one came forward with comments.

Larry Honeycutt moved to approve 3rd Reading of Ordinance 2015-1376. SECONDED by Steve Harper.

Charlene McGriff moved to amend 3rd Reading of Ordinance 2015-1376 to reflect the changes from salary to contractual in the ordinance. SECONDED by Steve Harper. Passed 6-1. Jack Estridge opposed.

Charlene McGriff moved to amend 3rd Reading of Ordinance 2015-1376, that this budget amendment transferring general fund revenues from the Lancaster County Economic Development Corporation to the Lancaster County Department of Economic Development be retroactive to September 30, 2015. SECONDED by Larry Honeycutt. Passed 6-1. Jack Estridge opposed.

Council approved 3rd Reading of Ordinance 2015-1376 as amended by a vote of 6-1. Jack Estridge opposed.

1st Reading of Ordinance 2015-1348 Amendments to the 2010 Nutramax Incentive, Fee and Infrastructure Credit Agreements

Ordinance Title: An ordinance to authorize the execution and delivery of Amendments to a 2010 Incentive Agreement, Fee Agreement, and Infrastructure Credit Agreement by and among Lancaster County, South Carolina, Nutramax Manufacturing Inc., Nutramax Laboratories, Inc., Nutramax Properties, LLC, Nutramax Land Holdings, Inc., The City of Lancaster, and the Lancaster County Economic Development Corporation; and to provide for other matters related thereto.

MOTION was made by Charlene McGriff to approve 1st Reading of Ordinance 2015-1348. SECONDED by Larry Honeycutt. Passed 7-0.

1st Reading of Ordinance 2015-1377 regarding the transfer of a fee in lieu of tax arrangement between Lancaster County and the Gillette Company

Ordinance Title: An Ordinance authorizing and approving the transfer of a fee in lieu of tax arrangement between Lancaster County, South Carolina, and the Gillette Company, as successor to Duracell Inc., under Title 4, Chapter 29 of the Code of Laws of South Carolina 1976, as amended, to an arrangement under Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended; authorizing and approving the assignment of three fee in lieu of tax

arrangements between the Gillette Company and the county to Duracell Manufacturing, Inc.; and providing for other matters related thereto.

Edward Kluiters, Attorney for the Gillette Company, spoke to Council regarding the transfer of the fee in lieu of tax arrangement. He explained that in 1998 Lancaster County and Gillette Company (successor in interest to Duracell, Inc.) entered into agreements of which certain property and improvements; including machinery and equipment, fixtures, and other personal property were conveyed to the County and leased back to the Company under a fee in lieu (FILOT) of tax arrangement. Today, counties typically no longer own industrial assets. Mr. Kluiters further explained that the documents in the package would convert the fee in lieu of tax arrangements to a Simplified FILOT.

Councilman Larry McCullough requested cost benefit analysis information. Steve Willis explained that this was not a new FILOT just a transfer and if we did a cost benefit analysis, we would have to use 1998 data.

MOTION was made by Charlene McGriff to approve 1st Reading of Ordinance 2015-1377.
SECONDED by Larry Honeycutt. Passed 7-0.

Discussion and Action Items

Appointment of George Kirlin to the Library Board - District 7.

MOTION was made by Larry Honeycutt to appoint George Kirlin to the Library Board representing District 7 for an unexpired term ending June 30, 2017. SECONDED by Brian Carnes. Passed 7-0.

Appointment of William Parker to the Indian Land Fire Fee Board.

MOTION was made by Larry McCullough to appoint William Parker to the Indian Land Fire Fee Board for an unexpired term ending June 30, 2017. SECONDED by Charlene McGriff. Passed 7-0.

Residency requirement.

Steve Willis discussed a potential residency requirement for some department heads. This item is on the Hilton Head meeting list of items to be addressed. Mr. Willis is seeking the direction of Council to determine if the desire is to impose a requirement as part of the Personnel Policy. He further noted that the change would be prospective in nature and current department heads that do not live in Lancaster County would be exempted.

Charlene McGriff moved to approve a residency requirement as part of the Personnel Policy.
MOTION failed for lack of a second.

DRAFT

Subrecipient Agreement for Erwin Farm Sewer Community Development Block Grant.

Steve Willis informed Council that approval is need for the Subrecipient Agreement for the Erwin Farm Sewer Community Development Block Grant (CDBG). This agreement has been approved by the Department of Commerce and authorizes the City of Lancaster to perform the work on their own system and fund the local match.

MOTION was made by Charlene McGriff to approve the Subrecipient Agreement for the Erwin Farm Sewer Community Development Block Grant. SECONDED by Larry McCullough. Passed 7-0.

Update regarding the bridge on Gilroy Drive in Regent Park Subdivision into the County Road System.

Steve Willis reported that we have not received information from the developer regarding the bridge and should be able to report to Council at the October 26th meeting.

Chairman Bundy requested a discussion item to be added to an upcoming meeting regarding road right of way issues and options.

Miscellaneous Reports and Correspondence

Lancaster County Transportation Committee update

Steve Willis handed out an update on the roads. The report is attached for reference as schedule A.

Executive Session

Brian Carnes made a MOTION to move into Executive Session. SECONDED by Charlene McGriff. Passed 7-0.

Steve Harper made a MOTION to move out of Executive Session. SECONDED by Charlene McGriff. Passed 7-0.

Attorney John Weaver stated while in Executive Session Council discussed Economic Development matters where no votes were taken and no motions were made.

MOTION was made by Brian Carnes to allow Commerce to rework our incentive proposal for Project 2015-1. SECONDED by Larry Honeycutt. Passed 7-0.

DRAFT

Adjournment

Larry Honeycutt made a MOTION to adjourn. SECONDED by Brian Carnes. Passed 7-0.

Respectfully Submitted:

Approved by Council, October 26, 2015

Debbie C. Hardin
Clerk to Council

Steve Harper, Secretary

Agenda Item Summary

Ordinance # / Resolution#: Resolution 0899-R2015
Contact Person / Sponsor: John Weaver
Department: County Attorney
Date Requested to be on Agenda: October 26, 2015

Issue for Consideration:

Whether or not it is appropriate to consider favorably this Inducement Resolution for **Project Streetcar**, an economic development project that will be disclosed publicly by its corporate name later in the legislative process.

Points to Consider:

Because of the potential magnitude of this project, it is being presented to full Council for an initial review rather than going first to the Administration Committee. Should the project move forward, this Resolution can later be considered in greater detail by the Administration Committee if Council deems such appropriate. Additionally, the subsequent corresponding FILOT legislation also can be reviewed by the Administration Committee prior to being considered by Council should Council determine that such an earlier review be necessary of appropriate.

1. The project sponsor has asked for a seven (7) year investment period.
2. The project sponsor has committed to a minimum investment of 100 million dollars (\$100,000,000).
3. The project sponsor has committed to a minimum job creation number of one thousand six hundred (1,600), which will have a minimum of thirty (30) hours per week and health benefits.
4. The project sponsor is requesting a 6% Fee In Lieu Of Taxes agreement for thirty (30) years. *
5. The project sponsor is requesting a fifty percent (50%) Special Source Revenue Credit for thirty (30) years.
6. The project sponsor is requesting Multi County Business park status for the project.

Funding and Liability Factors:

N/A

Council Options:

Recommend approval or rejection (denial) of the Inducement Resolution.

Staff Recommendation:

The County Attorney has withheld any recommendation pending receipt from the project's counsel an amended Inducement Resolution that more closely aligns itself with the anticipated expectations of Council based on prior Council actions.

Committee Recommendation:

N/A

STATE OF SOUTH CAROLINA

)

RESOLUTION NO. 0899-R2015

COUNTY OF LANCASTER

)

A RESOLUTION

TO STATE THE COMMITMENT OF LANCASTER COUNTY TO ENTER INTO A FEE AGREEMENT WITH PROJECT STREETCAR, AND/OR ITS DESIGNEE OR NOMINEE; TO PROVIDE THE GENERAL TERMS OF THE FEE AGREEMENT INCLUDING THE PROVISION OF A SPECIAL SOURCE REVENUE CREDIT; TO IDENTIFY THE PROJECT FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT; TO STATE THE COMMITMENT OF LANCASTER COUNTY TO PLACE PROJECT PROPERTY IN A MULTI-COUNTY PARK; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

WHEREAS, Lancaster County, South Carolina (the "County"), a political subdivision of the State of South Carolina (the "State"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Act") to encourage investment in the State by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State by accepting certain payments in lieu of ad valorem taxes with respect to such investment;

WHEREAS, a company, PROJECT STREETCAR, and one or more affiliates (collectively, the "Company"), is considering the construction and installation of an expansion project upon property located in the County (collectively, the "Project"), provided that the County enters into certain fee-in-lieu of tax arrangements with the Company, as set forth herein;

WHEREAS, in connection with the Project, the Company has requested that the County enter into an agreement to establish the intention of (i) the Company to make an investment in economic development property of not less than \$100,000,000, (ii) the Company to create not less than 1600 new full-time jobs, and (iii) upon investment in such economic development property, the binding agreement of the County to provide fee-in-lieu of tax ("FILOT") incentives, as set forth more fully in such agreement;

WHEREAS, the Company has informed the County that it intends to make or cause to be made new, taxable investments eligible for FILOT incentives under the Act, consisting of real and personal property related to the Project in the County of at least the minimum investment as defined in the Act over the first seven (7) years of the Project, and the County intends to commit itself to entering into a fee-in-lieu of tax agreement with the Company under the Act so that the Company may qualify the Project for benefits under the Act;

WHEREAS, the Company is party to existing fee-in-lieu of tax agreements with the County (the "Existing FILOT Agreements"), with respect to earlier facilities constructed by the Company in the County, which are owned and operated by the Company (respectively, "Phase A" and "Phase B");

WHEREAS, in addition to entering into a fee-in-lieu of tax agreement with the County with respect to the Project, the Company wishes to restate the terms of the Existing FILOT Agreements.

NOW, THEREFORE, BE IT RESOLVED by the Council of Lancaster County, South Carolina:

1. The adoption of this Resolution is an official action by the County Council to identify, reflect and induce the Project under the Act. For purposes of the Act, this Resolution is an "Inducement Resolution." For purposes of Section 12-44-110 of the Act, this Resolution constitutes preliminary approval by the County prior to the execution of a fee agreement.
2. The County commits to enter into a negotiated FILOT arrangement with the Company for the Project, the terms of which shall be set forth in a Fee Agreement in form and manner satisfactory to the County and the Company containing substantially the following terms:
 - a. an investment period of seven (7) years (the "Investment Period"); and
 - b. the Company's commitment to invest at least one hundred million dollars (\$100,000,000.00) in the Project, not later than the end of the Investment Period (the "Investment Commitment"); and
 - c. the Company's commitment to create, not later than the end of the Investment Period, not less than one thousand six hundred (1600) new full-time jobs (*i.e.*, at least thirty (30) hours per week) with health care benefits (the "Jobs Commitment"); and
 - d. calculation of FILOT Payments using an assessment ratio of six percent (6%) and a fixed millage rate which shall be the lower of the applicable millage rates in effect on June 30, 2014 or June 30, 2015, or such other rate as may be required by the Act, for the entire term of the Fee Agreement; and
 - e. a term of thirty (30) years, or longer, as provided under the Act, for the Fee Agreement and for each phase of the Project; and
 - f. a special source revenue credit equal to fifty percent (50%) of the FILOT Payments for each year of the Fee Agreement; and
 - g. repayment of any special source revenue credit taken by the Company if either the Investment Commitment or Jobs Commitment is not met; and
 - h. the Company's commitment to reimburse the County for its administrative expenses, including attorney's fees, associated with the Fee Agreement and the negotiation and review of all documentation and authorizing proceedings associated with the Project.
3. The County commits to amend and restate the Existing Fee Agreements, as related to Phase A and Phase B, the terms of which shall be in form and manner satisfactory to the County and Company.
4. County Council finds 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 incorporated municipality and to no charge against the general credit or taxing power of either the County or any incorporated municipality, (iii) the purposes to be accomplished by the Project are proper governmental and public purposes, and (iv) the benefits of the Project to the public are greater than the costs to the public.

5. Council commits to use its best efforts to designate the land on which the Project is located as a multi-county park, if not currently designated, pursuant to the authority of Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended and Article VIII, Section 13(D) of the South Carolina Constitution and to maintain the multi-county park designation for a period not less than the term of the Fee Agreement provided for in Section 2 of this Resolution. Council's commitment to place the Project land in a multi-county park is subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

6. Council shall approve the Fee Agreement, and any other agreement or document contemplated by this Resolution in accordance with South Carolina law and the rules and procedures of the Council.

7. To the extent this Resolution contains provisions that conflict with other orders, resolutions, and parts thereof, the provisions contained in this Resolution supersede all other orders, resolutions and parts thereof and this Resolution is controlling.

8. This Resolution takes effect upon its adoption.

Adopted this ___ day of _____, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

[SEAL]

Bob Bundy, Chair, County Council


Steve Harper, Secretary, County Council

Attest:

Debbie C. Hardin, Clerk to Council

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Agenda Item Summary

Ordinance # / Resolution#: 2015 - 1348
Contact Person / Sponsor: John Weaver 
Department: County Attorney
Date Requested to be on Agenda: October 26, 2105
Committee: Administration

Issue for Consideration: Whether or not it is appropriate to amend a 2010 incentive agreement with the various Nutramax corporate entities because of the company's continuing economic expansion and acquisition of additional real property.

Points to Consider: In 2010, Nutramax agreed to invest \$8.5 Million Dollars and to create 200 jobs. The job guarantee has been met and the investment is now approximately \$29 Million Dollars. The company now envisions an additional investment of \$15 Million Dollars and the creation of an additional 125 jobs. The amendment(s) to the 2010 ordinance, as noted in Exhibits A, B & C, will authorize an extension of the same economic development incentives to the new investment(s) by the company.

Funding and Liability Factors: N/A

Council Options: Approve or reject the various incentives being extended to Nutramax through the amendment of the ordinance.

Recommendation: Approval

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2015-1348

COUNTY OF LANCASTER

)
)

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF AMENDMENTS TO A 2010 INCENTIVE AGREEMENT, FEE AGREEMENT, AND INFRASTRUCTURE CREDIT AGREEMENT BY AND AMONG LANCASTER COUNTY, SOUTH CAROLINA, NUTRAMAX MANUFACTURING, INC., NUTRAMAX LABORATORIES, INC., NUTRAMAX PROPERTIES, LLC, NUTRAMAX LAND HOLDINGS, INC., THE CITY OF LANCASTER, AND THE LANCASTER COUNTY ECONOMIC DEVELOPMENT CORPORATION; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations.

Council finds and determines that:

a. Lancaster County, South Carolina (the “County”) acting by and through its Council (the “Council”) is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “Act”), to enter into fee agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the “State”) and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the manpower, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally;

b. the County is authorized by Sections 4-1-175 and 4-29-68 of the Code of Laws of South Carolina 1976, as amended, to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving Lancaster County and for improved and unimproved real estate used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of Lancaster County;

c. the County previously recruited a project (the **"Original Project"**) in the County by Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., Nutramax Properties, LLC, and Nutramax Land Holdings, Inc. (sometimes collectively referred to herein as the **"Company"**);

d. in connection with the Original Project, Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., the County, the Lancaster County Economic Development Corporation (the **"LCEDC"**), and the City of Lancaster, South Carolina (the **"City"**) entered into a June 7, 2010 Incentive Agreement (the **"Incentive Agreement"**); Nutramax Manufacturing, Inc. and the County entered into a June 28, 2010 Fee Agreement (the **"Fee Agreement"**); and Nutramax Laboratories, Inc., Nutramax Properties, LLC and the County entered into a June 28, 2010 Infrastructure Credit Agreement (the **"Infrastructure Credit Agreement"**) (collectively, the Incentive Agreement, the Fee Agreement, and the Infrastructure Credit Agreement are referred to herein as the **"2010 Agreements"**);

e. pursuant to the 2010 Agreements, the Company agreed to invest \$8.5 million in the Original Project and to create 200 jobs in connection with the Original Project by June 28, 2015;

f. the Company has already invested approximately \$29 million in the Original Project (\$20.5 million in excess of its \$8.5 million investment commitment) and has succeeded in creating 200 jobs in connection with the Original Project;

g. Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., Nutramax Properties, LLC and Nutramax Land Holdings, Inc., and one or more related corporations and limited liability companies which are now existing or to be formed in the future are considering additional investments, through themselves and/or one or more existing or to-be-formed affiliated or related entities and/or one or more unrelated parties, including third party lessors, in the expansion of a manufacturing facility and related facilities through the acquisition of land, buildings, and improvements thereon (the **"Land and Building"**), the construction of improvements thereon and/or therein, and/or the acquisition of personal property, including, but not limited to, machinery, equipment, and furniture to be installed on and/or in the Land and Building, which are eligible for inclusion under the Act as economic development property, the cost of which is estimated to be \$15 million, along with the creation of 125 new, full-time jobs (the **"New Project"**), all as more fully set forth in the Amendments;

h. the Original Project is presently located at three sites in the County, including one site in the City, and it is presently contemplated that the New Project will be located at one or more of such three sites and/or an additional site in the County, so that all investments and jobs located or to be located at any of those four sites shall be counted and included for purposes of all benefits and requirements set forth in the 2010 Agreements;

i. Council, in order to induce the Company to locate the New Project in the County, adopted, on August 24, 2015, Resolution No. 0883-R2015 (the **"Inducement Resolution"**) to the effect that, if the Company would commit to locate the New Project in the County, the Council would take certain actions and provide certain incentives for the New Project and the Original Project, including entering into amendments to the 2010 Agreements to, among other things, extend the period during which reduced fee-in-lieu of tax payments may be made and extend the period during which the special source revenue credit would apply to the Company's investments;

j. the parties to the Incentive Agreement agree that all rights and obligations of the LCEDC under the Incentive Agreement have been satisfied and that the Incentive Agreement should now be amended to remove the LCEDC as a party to the Incentive Agreement; and

k. it is the purpose of this ordinance to provide for the approval of the above-referenced amendments and to effectuate the commitments of the County made in the Inducement Resolution.

Section 2. Additional findings and determinations.

Council finds and determines that:

- a. the New Project will constitute a “project” as the term is referred to and defined in the Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act;
- b. the New Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the New Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made;
- c. the New 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;
- d. the New Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either;
- e. the purposes to be accomplished by the New Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes;
- f. the inducement of the location of the New Project within the County and State is of paramount importance; and
- g. the benefits of the New Project to the public will be greater than the costs to the public.

Section 3. Approval of Amendments.

The form, terms, and provisions of the First Amendment to Incentive Agreement, attached hereto as Exhibit A, the First Amendment to Infrastructure Credit Agreement, attached hereto as Exhibit B, and the First Amendment to Fee Agreement, attached hereto as Exhibit C (collectively, the First Amendment to Incentive Agreement, the First Amendment to Infrastructure Credit Agreement, and the First Amendment to Fee Agreement are referred to as the “**Amendments**”), are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Amendments were set out in this Ordinance in their entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the Amendments in the name of and on behalf of the County, and thereupon to cause the Amendments to be delivered to the Company. The Amendments are to be in substantially the form attached hereto and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer’s execution thereof to constitute conclusive evidence of such officer’s approval of any and all changes or revisions therein from the form of the Amendments attached to this ordinance.

Section 4. Cost-Benefit Findings.

Council makes the following findings concerning the costs and benefits of the New Project:

- a. the benefits of providing the incentives arrangement set forth in the Amendments include: (i) investment in personal property and certain real estate improvements of at least \$15,000,000; (ii) an average annual increase in property taxes (FILOT payments) of approximately \$N/A after application of incentives; (iii) construction benefit of \$2,010,000; (iv) facility operation benefit of \$3,929,320; (v) employee benefit of \$46,477; and (vi) visitor benefit of \$0. The total benefit is estimated at \$5,985,797;
- b. the cost of providing the incentives arrangement is estimated at: (i) development costs of \$0; (ii) operational costs of \$267,551; and (iii) employee costs of \$95,878. The total cost is estimated at \$363,429;
- c. the benefit to cost ratio in year one is estimated at \$15.19:1 and after year one at \$9.66:1; and
- d. the value of the FILOT incentive to the Company is estimated at \$1,326,393 and the special source revenue credits at \$376,086.

Section 5. Economic Development Fund.

(A) Council finds that (i) by passage of Ordinance No. 2014-1260, Council created an Economic Development Fund with the intent to make monies available to the fund from new revenues to the County derived from new and expanded businesses and industry, and (ii) the ability to make monies available to the Economic Development Fund can be difficult because of complexities and legalities applicable to fee-in-lieu of tax arrangements and multi-county parks.

(B) It is the intent of Council, in the annual County budget, to appropriate monies to the Economic Development Fund based on the new revenue that the County receives pursuant to the Amendments. Specifically, it is Council's intent to appropriate from the General Fund of the County an amount based on the following formula: Seven percent (7%) times the amount of money received pursuant to the Fee Agreement from the New Project by the County after distribution to other taxing entities in the most recently completed tax year.

Section 6. Authority to act.

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Amendments and the performance of all obligations of the County under and pursuant to the Amendments.

Section 7. Severability.

The provisions of this Ordinance are separable, and if any section, phrase, or provision is for any reason declared by a court of competent jurisdiction to be invalid or unenforceable, the declaration shall not affect the validity of the remainder of the sections, phrases, and provisions in this Ordinance.

Section 8. Controlling Provision.

To the extent that this Ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances and resolutions, the provisions contained in this Ordinance supersede all other provisions and this Ordinance is controlling.

Section 9. Effective date.

This Ordinance is effective upon third reading.

AND IT IS SO ORDAINED, this ____ day of _____, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

Attest:

Debbie C. Hardin, Clerk to Council

First Reading: _____, 2015
Second Reading: _____, 2015
Public Hearing: _____, 2015
Third Reading: _____, 2015

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit A to Ordinance No. 2015-1348

**First Amendment to Incentive Agreement
Nutramax**

This FIRST AMENDMENT TO INCENTIVE AGREEMENT (this "**Amendment**") is dated as of _____, 2015 by and between NUTRAMAX MANUFACTURING, INC., NUTRAMAX LABORATORIES, INC., NUTRAMAX PROPERTIES, LLC, NUTRAMAX LAND HOLDINGS, INC., LANCASTER COUNTY, SOUTH CAROLINA (the "**County**"), a body politic and corporate and a political subdivision of the State of South Carolina, the LANCASTER COUNTY ECONOMIC DEVELOPMENT CORPORATION ("**LCEDC**"), and the CITY OF LANCASTER, SOUTH CAROLINA (the "**City**") (all of the foregoing entities collectively referred to in this Amendment as the "**Parties**").

WITNESSETH:

WHEREAS, the County previously recruited a project (the "**Original Project**") in the County by Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., Nutramax Properties, LLC, and Nutramax Land Holdings, Inc. (sometimes collectively referred to herein as the "**Company**");

WHEREAS, in connection with the Original Project, Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., the County, the LCEDC, and the City entered into a June 7, 2010 Incentive Agreement (the "**Incentive Agreement**"); Nutramax Manufacturing, Inc. and the County entered into a June 28, 2010 Fee Agreement (the "**Fee Agreement**"); and Nutramax Laboratories, Inc., Nutramax Properties, LLC and the County entered into a June 28, 2010 Infrastructure Credit Agreement (the "**Infrastructure Credit Agreement**") (collectively, the Incentive Agreement, the Fee Agreement, and the Infrastructure Credit Agreement are referred to herein as the "**2010 Agreements**");

WHEREAS, pursuant to the 2010 Agreements, the Company agreed to invest \$8.5 million in the Original Project and to create 200 jobs in connection with the Original Project by June 28, 2015;

WHEREAS, the Company has already invested approximately \$29 million in the Original Project (\$20.5 million in excess of its \$8.5 million investment commitment) and has succeeded in creating 200 jobs in connection with the Original Project;

WHEREAS, the County recruited an additional investment in the County by the Company of approximately \$15 million and 125 new, full-time jobs (the "**New Project**");

WHEREAS, the Original Project is presently located at three sites in the County, including one site in the City, and it is presently contemplated that the New Project will be located at one or more of such three sites and/or an additional site in the County, so that all investments and jobs located or to be located at any of those four sites shall be counted and included for purposes of all benefits and requirements set forth in the 2010 Agreements;

WHEREAS, the County Council, in order to induce the Company to locate the New Project in the County, adopted on August 24, 2015, Resolution No. 0883-R2015 (the "**Inducement Resolution**") to the effect that, if the Company would commit to locate the New Project in the County, the Council would take certain actions and provide certain incentives for the New Project and the Original Project, including

entering into amendments to the 2010 Agreements to, among other things, extend the period during which reduced fee-in-lieu of taxes (“FILOT”) payments may be made and extend the period during which the special source revenue credit (“SSRC”) would apply to the Company’s investments;

WHEREAS, the City Council, in order to induce the Company to locate a portion of the New Project in the City, passed a September 9, 2015 Motion approving and affirming the County Council’s August 24, 2015 Inducement Resolution;

WHEREAS, the Parties agree that all rights and obligations of the LCEDC under the Incentive Agreement have been satisfied, and the Parties agree that the Incentive Agreement should now be amended to remove the LCEDC as a party thereto; and

WHEREAS, pursuant to Ordinance No. 2015-1348 dated _____, 2015 (the “Ordinance”), the County Council authorized this Amendment, and pursuant to Resolution No. _____ dated _____, 2015, the City Council authorized this Amendment, and the Parties now desire to enter into this Amendment.

NOW, THEREFORE, in consideration of the above and the respective agreements contained in this Amendment, the Parties hereby agree as follows:

1. The Incentive Agreement shall be amended by removing the LCEDC as a party thereto and by adding Nutramax Properties, LLC and Nutramax Land Holdings, Inc. as parties thereto, and such additional parties, together with Nutramax Manufacturing, Inc. and Nutramax Laboratories, Inc., shall be collectively defined therein as the “Company.”

2. Article I of the Incentive Agreement shall be amended by adding the following paragraph at the end of that Article:

As of [insert the effective date of the First Amendment], the Company and the County agree to add to the land and buildings subject to this Agreement prior to [insert the effective date of the First Amendment] the parcel of land located at 1792 Silkies Boulevard, Lancaster, South Carolina (Tax Map No. 0080-00-001.00) together with one or more buildings and personal property located or to be located on such parcel (the “Additional Site”). The incentives and benefits provided to the Company through the MCBP FILOT and SSRC shall apply to the Additional Site. Investments made and jobs created at the Additional Site shall be included in the computations made to determine if the amount of investments and the number of jobs required with respect to any maintenance requirements set forth in this Agreement (including without limitation Article II(c)(ii) and Article IV (b) hereof) have been achieved.

3. Article II of the Incentive Agreement shall be amended by adding new Article II(g) and Article II(h), which shall read as follows:

(g) Notwithstanding anything in Article II(c) hereof to the contrary, the County and the Company agree that as of [insert effective date of Amendment], (i) the Company has satisfied all conditions and requirements imposed by Article II of this Agreement with respect to the 43 Acre Tract, and the County does hereby and, as necessary, shall, terminate, release and/or satisfy, as applicable, any mortgages or other liens that the County may have with respect to the 43 Acre Tract, (ii) the County has satisfied the

conditions and requirements imposed by Article III(a)(vi) of this Agreement to provide a 95% special source revenue credit for the 43 Acre Tract, and (iii) the 50% SSRC referenced in Article III(a)(iii) of this Agreement shall also apply to the Company's FILOT payments on the 43 Acre Tract.

(h) As of December 31, 2014, the parties to this Agreement recognize and agree that Scenario III, as set forth in Article II(b)(iii) hereof, is the applicable scenario for purposes of this Agreement.

4. In Article III(a)(i) of the Incentive Agreement, the reference in clause (v) to "a 30-year term" shall be changed to a reference to "a 40-year term."

5. Article III(a)(iii) of the Incentive Agreement shall be revised and restated to read as follows:

The County agrees to provide an additional SSRC equal to fifty percent (50%) of the Negotiated FILOT and the MCBP FILOT, net of the SSRC as provided in subarticle (ii) above, for all qualifying expenses of the Company under South Carolina law, for a period of ten (10) years as described in the following sentence. This SSRC shall apply to each annual component of the Negotiated FILOT and the MCBP FILOT for a period of ten (10) years for each annual component of investments placed in service by the Company between January 1, 2010 and December 31, 2024, so that for each year's investments placed in service during such period the fifty percent (50%) SSRC shall apply for ten (10) years thereafter. Thus, for example, for investments placed in service by the Company during 2010, the ten (10)-year, 50% SSRC shall apply for years 2011-2020, and for investments placed in service by the Company during 2024, the ten (10)-year, 50% SSRC shall apply for years 2025-2034.

6. Article IV of the Incentive Agreement shall be amended by adding new Article IV(e) and Article IV(f), which shall read as follows:

(e) If, between January 1, 2014 and December 31, 2019 the Company does not invest, in addition to the \$29,000,000 already invested or to be invested (including the \$8,500,000 referenced in Article II(c)(ii) hereof), at least \$15,000,000 (the "**Expansion Investment Minimum**") and does not create, in addition to the 200 jobs already created (as referenced in Article II(c)(ii) hereof), at least 125 new, full-time (i.e., at least thirty (30) hours per week) jobs, (i) with an average hourly wage not less than \$13.15, including overtime, bonuses and all other forms of actual pre-tax and post-tax monetary compensation and (ii) with health care benefits (the "**Expansion Jobs Minimum**"), then the additional 50% SSRC to be provided to the Company pursuant to Article III(a)(iii) hereof with respect to the annual components of investments placed in service during 2020 and subsequent years, shall be reduced by an amount that is proportional to any shortfall by the Company of greater than 10% in achieving the Expansion Investment Minimum and the Expansion Jobs Minimum; provided, however, that an overperformance in either the Expansion Investment Minimum or the Expansion Jobs Minimum shall serve to offset an underperformance in the other category.

(f) As of December 31, 2014, the parties to this Agreement recognize and agree that the Company has met the initial investment, wage and job requirements as set forth in

Articles II(c)(ii) and IV(b) hereof within the five (5)-year period referenced therein. The Company recognizes and agrees that the maintenance requirement set forth in Articles II(c)(ii) and IV(b) hereof continues to apply as set forth therein.

7. This Amendment controls over any contrary or inconsistent provision of the Incentive Agreement. Every provision of the Incentive Agreement not amended or modified by the terms of this Amendment shall remain unchanged and in full force and effect.

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

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

Attest:

Debbie C. Hardin, Clerk to Council

ADDITIONAL SIGNATURES FOLLOW ON NEXT PAGE.

NUTRAMAX MANUFACTURING, INC.

By: _____
Name: _____
Title: _____

NUTRAMAX LABORATORIES, INC.

By: _____
Name: _____
Title: _____

NUTRAMAX PROPERTIES, LLC

By: _____
Name: _____
Title: _____

NUTRAMAX LAND HOLDINGS, INC.

By: _____
Name: _____
Title: _____

LANCASTER COUNTY ECONOMIC DEVELOPMENT
CORPORATION (hereby removing itself as a party to the
Incentive Agreement)

By: _____
Name: _____
Title: _____

CITY OF LANCASTER, SOUTH CAROLINA

By: _____
Name: _____
Title: _____

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

Exhibit B to Ordinance No. 2015-1348

**First Amendment to Infrastructure Credit Agreement
Nutramax**

This FIRST AMENDMENT TO INFRASTRUCTURE CREDIT AGREEMENT (this "**Amendment**") is dated as of _____, 2015 by and between LANCASTER COUNTY, SOUTH CAROLINA (the "**County**"), a body politic and corporate and a political subdivision of the State of South Carolina, NUTRAMAX MANUFACTURING, INC., NUTRAMAX LABORATORIES, INC., NUTRAMAX PROPERTIES, LLC and NUTRAMAX LAND HOLDINGS, INC. (all of the foregoing entities collectively referred to in this Amendment as the "**Parties**").

WITNESSETH:

WHEREAS, the County previously recruited a project (the "**Original Project**") in the County by Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., Nutramax Properties, LLC, and Nutramax Land Holdings, Inc. (sometimes collectively referred to herein as the "**Company**");

WHEREAS, in connection with the Original Project, Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., the County, the Lancaster County Economic Development Corporation, and the City of Lancaster, South Carolina (the "**City**") entered into a June 7, 2010 Incentive Agreement (the "**Incentive Agreement**"); Nutramax Manufacturing, Inc. and the County entered into a June 28, 2010 Fee Agreement (the "**Fee Agreement**"); and Nutramax Laboratories, Inc., Nutramax Properties, LLC and the County entered into a June 28, 2010 Infrastructure Credit Agreement (the "**Infrastructure Credit Agreement**") (collectively, the Incentive Agreement, the Fee Agreement, and the Infrastructure Credit Agreement are referred to herein as the "**2010 Agreements**");

WHEREAS, pursuant to the 2010 Agreements, the Company agreed to invest \$8.5 million in the Original Project and to create 200 jobs in connection with the Original Project by June 28, 2015;

WHEREAS, the Company has already invested approximately \$29 million in the Original Project (\$20.5 million in excess of its \$8.5 million investment commitment) and has succeeded in creating 200 jobs in connection with the Original Project;

WHEREAS, the County recruited an additional investment in the County by the Company of approximately \$15 million and 125 new, full-time jobs (the "**New Project**");

WHEREAS, the Original Project is presently located at three sites in the County, including one site in the City, and it is presently contemplated that the New Project will be located at one or more of such three sites and/or an additional site in the County, so that all investments and jobs located or to be located at any of those four sites shall be counted and included for purposes of all benefits and requirements set forth in the 2010 Agreements;

WHEREAS, the County Council, in order to induce the Company to locate the New Project in the County, adopted on August 24, 2015, Resolution No. 0883-R2015 (the "**Inducement Resolution**") to the effect that, if the Company would commit to locate the New Project in the County, the Council would take certain actions and provide certain incentives for the New Project and the Original Project, including entering into amendments to the 2010 Agreements to, among other things, extend the period during which

reduced fee-in-lieu of taxes (“FILOT”) payments may be made and extend the period during which the special source revenue credit (“SSRC”) would apply to the Company’s investments;

WHEREAS, the City Council, in order to induce the Company to locate a portion of the New Project in the City, passed a September 9, 2015 Motion approving and affirming the County Council’s August 24, 2015 Inducement Resolution; and

WHEREAS, pursuant to Ordinance No. 2015-1348 dated _____, 2015 (the “**Ordinance**”), the County Council authorized this Amendment, and pursuant to Resolution No. _____ dated _____, 2015, the City Council authorized the Incentive Agreement Amendment and consented to the FILOT and SSRC modifications referenced above with respect to the City site, and the Parties now desire to enter into this Amendment.

NOW, THEREFORE, in consideration of the above and the respective agreements contained in this Amendment, the Parties hereby agree as follows:

1. The Infrastructure Credit Agreement shall be amended by adding Nutramax Manufacturing, Inc. and Nutramax Land Holdings, Inc. as parties thereto, and such additional parties, together with Nutramax Laboratories, Inc. and Nutramax Properties, Inc., shall be collectively defined therein as the “Company.”

2. Exhibit A to the Infrastructure Credit Agreement shall be amended by adding at the end of the exhibit:

“PARCEL D:

1792 Silkies Boulevard, Lancaster, South Carolina
Tax Map No. 0080-00-001.00”

3. The third paragraph of Section 3.02(a) of the Infrastructure Credit Agreement is revised and restated to read as follows:

The third component of the SSRC is an annual credit equal to fifty percent (50%) of the Lancaster Fee Payments each year for ten years (net of the first and second components of the Special Source Revenue Credits) for each annual component of property that the Company places in service between January 1, 2010 and December 31, 2024. Thus, for example, for each annual component of property placed in service by the Company during 2010, the ten-year, 50% SSRC shall apply for years 2011-2020, and for each annual component of property placed in service by the Company during 2024, the ten-year, 50% SSRC shall apply for years 2025-2034.

4. Section 3.03 of the Infrastructure Credit Agreement shall be amended by adding new subsections (e) and (f), which shall read as follows:

(e) If, between January 1, 2014 and December 31, 2019 the Company does not invest, in addition to the \$29,000,000 already invested or to be invested (including the \$8,500,000 referenced in Section 3.03(a) hereof), at least \$15,000,000 (the “**Expansion Investment Minimum**”) and does not create, in addition to the 200 jobs already created (as referenced in Section 3.03(a) hereof), at least 125 new, full-time (i.e., at least thirty (30)

hours per week) jobs, (i) with an average hourly wage not less than \$13.15, including overtime, bonuses and all other forms of actual pre-tax and post-tax monetary compensation and (ii) with health care benefits (the “**Expansion Jobs Minimum**”), then the additional 50% SSRC to be provided to the Company pursuant to Section 3.02(a) hereof with respect to the annual components of investments placed in service during 2020 and subsequent years, shall be reduced by an amount that is proportional to any shortfall by the Company of greater than 10% in achieving the Expansion Investment Minimum and the Expansion Jobs Minimum; provided, however, that an overperformance in either the Expansion Investment Minimum or the Expansion Jobs Minimum shall serve to offset an underperformance in the other category.

(f) As of December 31, 2014, the parties to this Agreement recognize and agree that the Company has met the initial investment, wage and job requirements as set forth in Section 3.03(a) hereof within the five (5)-year period referenced therein. The Company recognizes and agrees that the maintenance requirement set forth in Section 3.03(b) hereof continues to apply as set forth therein.

5. This Amendment controls over any contrary or inconsistent provision of the Infrastructure Credit Agreement. Every provision of the Infrastructure Credit Agreement not amended or modified by the terms of this Amendment shall remain unchanged and in full force and effect.

SIGNATURES FOLLOW ON NEXT PAGE.

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

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

Attest:

Debbie C. Hardin, Clerk to Council

NUTRAMAX MANUFACTURING, INC.

By: _____
Name: _____
Title: _____

NUTRAMAX LABORATORIES, INC.

By: _____
Name: _____
Title: _____

NUTRAMAX PROPERTIES, LLC

By: _____
Name: _____
Title: _____

NUTRAMAX LAND HOLDINGS, INC.

By: _____
Name: _____
Title: _____

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

Exhibit C to Ordinance No. 2015-1348

**First Amendment to Fee Agreement
Nutramax**

This FIRST AMENDMENT TO FEE AGREEMENT (this “**Amendment**”) is dated as of _____, 2015 by and between NUTRAMAX MANUFACTURING, INC., NUTRAMAX LABORATORIES, INC., NUTRAMAX PROPERTIES, LLC, NUTRAMAX LAND HOLDINGS, INC. and LANCASTER COUNTY, SOUTH CAROLINA (the “**County**”), a body politic and corporate and a political subdivision of the State of South Carolina (the foregoing entities collectively referred to in this Amendment as the “**Parties**”).

WITNESSETH:

WHEREAS, the County previously recruited a project (the “**Original Project**”) in the County by Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., Nutramax Properties, LLC, and Nutramax Land Holdings, Inc. (sometimes collectively referred to herein as the “**Company**”);

WHEREAS, in connection with the Original Project, Nutramax Manufacturing, Inc., Nutramax Laboratories, Inc., the County, the Lancaster County Economic Development Corporation, and the City of Lancaster, South Carolina (the “**City**”) entered into a June 7, 2010 Incentive Agreement (the “**Incentive Agreement**”); Nutramax Manufacturing, Inc. and the County entered into a June 28, 2010 Fee Agreement (the “**Fee Agreement**”); and Nutramax Laboratories, Inc., Nutramax Properties, LLC and the County entered into a June 28, 2010 Infrastructure Credit Agreement (the “**Infrastructure Credit Agreement**”) (collectively, the Incentive Agreement, the Fee Agreement, and the Infrastructure Credit Agreement are referred to herein as the “**2010 Agreements**”);

WHEREAS, pursuant to the 2010 Agreements, the Company agreed to invest \$8.5 million in the Original Project and to create 200 jobs in connection with the Original Project by June 28, 2015;

WHEREAS, the Company has already invested approximately \$29 million in the Original Project (\$20.5 million in excess of its \$8.5 million investment commitment) and has succeeded in creating 200 jobs in connection with the Original Project;

WHEREAS, the County recruited an additional investment in the County by the Company of approximately \$15 million and 125 new, full-time jobs (the “**New Project**”);

WHEREAS, the Original Project is presently located at three sites in the County, including one site in the City, and it is presently contemplated that the New Project will be located at one or more of such three sites and/or an additional site in the County, so that all investments and jobs located or to be located at any of those four sites shall be counted and included for purposes of all benefits and requirements set forth in the 2010 Agreements;

WHEREAS, the County Council, in order to induce the Company to locate the New Project in the County, adopted on August 24, 2015, Resolution No. 0883-R2015 (the “**Inducement Resolution**”) to the effect that, if the Company would commit to locate the New Project in the County, the Council would take certain actions and provide certain incentives for the New Project and the Original Project, including entering into amendments to the 2010 Agreements to, among other things, extend the period during which

reduced fee-in-lieu of taxes (“FILOT”) payments may be made and extend the period during which the special source revenue credit (“SSRC”) would apply to the Company’s investments;

WHEREAS, the City Council, in order to induce the Company to locate a portion of the New Project in the City, passed a September 9, 2015 Motion approving and affirming the County Council’s August 24, 2015 Inducement Resolution; and

WHEREAS, pursuant to Ordinance No. 2015-1348 dated _____, 2015 (the “Ordinance”), the County Council authorized this Amendment, and pursuant to Resolution No. _____ dated _____, 2015, the City Council authorized the Incentive Agreement Amendment and consented to the FILOT and SSRC modifications referenced above with respect to the City site, and the Parties now desire to enter into this Amendment.

NOW, THEREFORE, in consideration of the above and the respective agreements contained in this Amendment, the Parties hereby agree as follows:

1. The Fee Agreement shall be amended by adding Nutramax Laboratories, Inc., Nutramax Properties, LLC and Nutramax Land Holdings, Inc. as parties thereto, and such additional parties, together with Nutramax Manufacturing, Inc., shall be collectively defined therein as the “Company.”

2. Exhibit A to the Fee Agreement shall be amended by adding at the end of the exhibit:

“PARCEL D:

1792 Silkies Boulevard, Lancaster, South Carolina
Tax Map No. 0080-00-001.00”

3. In Section 1.1 of the Fee Agreement, the definition of “Termination Date” shall be amended by revising the references to “29th year” to read “39th year” and by revising the reference to “30 annual FILOT payments” to read “40 annual FILOT payments.”

4. Section 4.1(a), Step 2, of the Fee Agreement shall be amended by revising the reference to “29 years” to read “39 years.”

5. Section 4.1(c)(1) of the Fee Agreement shall be amended and restated to read as follows:

The County agrees that all qualifying capital expenses of the Company between January 1, 2010 and December 31, 2024 shall qualify for an Infrastructure Credit equal to 50% of the FILOT payments arising under this Agreement for ten years. This Infrastructure Credit shall apply to each annual component of the property placed in service between January 1, 2010 and December 31, 2024 for a period of ten years, beginning the year after each such component is placed in service. Thus, for example, for property placed in service during 2010, the 10-year, 50% SSRC shall apply for years 2011-2020, and for property placed in service during 2024, the 10-year, 50% SSRC shall apply for years 2025-2034. The Infrastructure Credit shall be applied as a setoff against the FILOT owed for the then current year and shall apply against the entire FILOT payment due, including any portions that may be allocable to any municipality or school district.

6. Section 4.2 of the Fee Agreement shall be amended by adding new subsections (f) and (g), which shall read as follows:

(f) If, between January 1, 2014 and December 31, 2019 the Company does not invest, in addition to the \$29,000,000 already invested or to be invested (including the \$8,500,000 referenced in Section 4.2(b) hereof), at least \$15,000,000 (the “**Expansion Investment Minimum**”) and does not create, in addition to the 200 jobs already created (as referenced in Section 4.2(b) hereof), at least 125 new, full-time (i.e., at least thirty (30) hours per week) jobs, (i) with an average hourly wage not less than \$13.15, including overtime, bonuses and all other forms of actual pre-tax and post-tax monetary compensation and (ii) with health care benefits (the “**Expansion Jobs Minimum**”), then the additional 50% SSRC to be provided to the Company pursuant to Section 4.1(c)(1) hereof with respect to the annual components of investments placed in service during 2020 and subsequent years, shall be reduced by an amount that is proportional to any shortfall by the Company of greater than 10% in achieving the Expansion Investment Minimum and the Expansion Jobs Minimum; provided, however, that an overperformance in either the Expansion Investment Minimum or the Expansion Jobs Minimum shall serve to offset an underperformance in the other category.

(g) As of December 31, 2014, the parties to this Agreement recognize and agree that the Company has met the initial investment, wage and job requirements as set forth in Section 4.2(b) hereof within the five (5)-year period referenced therein. The Company recognizes and agrees that the maintenance requirement set forth in Section 4.2(c) hereof continues to apply as set forth therein.

7. This Amendment controls over any contrary or inconsistent provision of the Fee Agreement. Every provision of the Fee Agreement not amended or modified by the terms of this Amendment shall remain unchanged and in full force and effect.

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

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

Attest:

Debbie C. Hardin, Clerk to Council

ADDITIONAL SIGNATURES FOLLOW ON NEXT PAGE.

NUTRAMAX MANUFACTURING, INC.

By: _____
Name: _____
Title: _____

NUTRAMAX LABORATORIES, INC.

By: _____
Name: _____
Title: _____

NUTRAMAX PROPERTIES, LLC

By: _____
Name: _____
Title: _____

NUTRAMAX LAND HOLDINGS, INC.

By: _____
Name: _____
Title: _____

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

~#4850-0539-1393 v.10~

The Gillette Company
Conversion of Title Transfer Fee-in-Lieu of Tax

Executive Summary

JW 10/14/15

Background

a. FILOT Arrangements

1. Negotiated FILOT – Title Transfer

In the late 1990s, Lancaster County approved a negotiated fee-in-lieu of tax (FILOT) incentive for Duracell. The specific negotiated FILOT incentive used is referred to as a “title transfer” FILOT. As the name implies, a title transfer FILOT involves the transfer of title to real and personal property from the company to the County. The County then leases the property back to the company pursuant to a lease agreement. Because the property is owned by a governmental body, the property is exempt from property taxes, however, provisions in the lease agreement require the company to pay a fee-in-lieu of tax. The transfer of title and lease agreement remain in place for the period of time specified in the incentive documents. The result of the title transfer FILOT arrangement is that, technically, Lancaster County owns a significant portion of the Duracell facility although it is leased back to Duracell.

Today, title transfer FILOT arrangements are rarely, if ever, used, in large part because they are complicated and costly. In addition, companies have always been, and continue to be, reluctant to transfer title to their property to a county government. Moreover, county governments are hesitant to use the title transfer FILOT because of liability concerns, particularly when a simpler mechanism is available. The preferred method today for approving and implementing a negotiated FILOT arrangement is to use the Fee in Lieu of Tax Simplification Act (the “Simplified FILOT”).

2. Negotiated FILOT – Incentive Terms

The basic terms of the negotiated title transfer FILOT approved for Duracell in 1998 were:

- Investment Period – five years
- Term -- twenty years for each year of investment during the Investment Period. In effect, the arrangement is in place for twenty-five years and it ends December 31, 2022.
- Assessment Ratio – 6%
- Millage Rate – 375.9 mills
- Alternative Payment Method – Equal annual payments using net present value

3. Negotiated FILOT – Simplified FILOT

Since the approval of the title transfer FILOT arrangement in the late '90s, the County has approved two Simplified FILOT arrangements for Duracell, one in 2008 and the other in 2014.

b. Industrial Revenue Bonds

As part of the incentive package approved in the late '90s, the County agreed to issue not to exceed \$80,000,000 of Industrial Revenue Bonds ("IRBs"). The IRBs were purchased by Duracell. The proceeds from the IRB issue were used for the purpose of financing the Duracell manufacturing facility. Pursuant to the terms of the lease agreement between the County and Duracell, and, in addition to any other payments due under the lease agreement, Duracell is required to make annual lease payments to the County in an amount sufficient to pay the principal and interest on the IRBs.

Request from The Gillette Company

The Gillette Company, the successor to Duracell ("Gillette"), is asking the County for two actions:

1. Convert the title transfer FILOT arrangement to a Simplified FILOT. This request includes the termination of the IRBs.
2. Approve the assignment of all Duracell FILOT arrangements to Duracell Manufacturing, Inc., in connection with the divestiture of Duracell to Berkshire Hathaway, Inc.

Actions Needed

State law allows title transfer FILOT arrangements to be converted to Simplified FILOTs. As proposed by Gillette and required by state law, the duration and level of the FILOT incentive remains the same under the simplified arrangement.

If Council is willing to grant Gillette's request, then Council will need to approve one or more ordinances and to hold public hearings. At a minimum, Council would consider an ordinance to approve the conversion of the title transfer FILOT arrangements to a Simplified FILOT and the assignment of the FILOT arrangements to Duracell Manufacturing, Inc.

Although the request from Gillette is relatively straight forward, the conversion requires a number of documents to implement it. For that reason, several documents will be included as exhibits or attachments to the ordinance(s).

Proposed Timetable

September 24 – Administration Committee

October 12 – First Reading

October 26 – Second Reading

November 9 – Public Hearings and Third Reading

--XX--

MEMORANDUM

TO: County Council via Council Package

FROM: Steve Willis, County Administrator *SW*

TODAY'S DATE: October 20, 2015

DUE DATE: N/A

SUBJECT: CBA Data for Duracell

The following Cost Benefit Data is taken from the most recent ordinance, 2014-1277, regarding Duracell. For the ordinance under consideration there is no change in the financial portion as this is only a name change; therefore, these numbers would still be in effect.

Investment in personal property and real estate improvements of \$69,000,000
Increase in FILOT payments of \$73,645
Construction benefit of \$10,350,000
Facility operation benefit of \$2,056,226
Employee benefit – not applicable as there was no change in employment
Visitor benefit of \$7,400
Total benefit of \$12,413,626

Development costs – not applicable
Operational costs of \$1,993,533
Employee costs – not applicable
Total cost of \$1,993,533

Year 1 CBA - \$6.23 to 1
Post years CBA - \$1.04 to 1

Value of FILOT incentives - \$8,027,285
Value of SSRC incentives - \$3,789,542

Source: Ordinance 2014-1277, page 3

SW

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

)
)
)

ORDINANCE NO. 2015-1377

AN ORDINANCE

AUTHORIZING AND APPROVING THE TRANSFER OF A FEE IN LIEU OF TAX ARRANGEMENT BETWEEN LANCASTER COUNTY, SOUTH CAROLINA, AND THE GILLETTE COMPANY, AS SUCCESSOR TO DURACELL INC., UNDER TITLE 4, CHAPTER 29 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, TO AN ARRANGEMENT UNDER TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; AUTHORIZING AND APPROVING THE ASSIGNMENT OF THREE FEE IN LIEU OF TAX ARRANGEMENTS BETWEEN THE GILLETTE COMPANY AND THE COUNTY TO DURACELL MANUFACTURING, INC.; AND PROVIDING FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and determinations; Purpose.

(A) The Council finds and determines that:

(1) Lancaster County (the "County") and The Gillette Company (successor in interest to Duracell Inc.) (the "Company") entered into an Inducement Agreement and Millage Rate Agreement dated January 26, 1998 (the "Inducement Agreement"), a Lease Agreement dated as of June 1, 1998 (the "Lease Agreement"), a Memorandum of Lease and Option to Purchase dated as of June 26, 1998 (the "Memorandum of Lease"), an Indenture dated as of June 1, 1998 (the "Indenture"), and an Escrow Agreement among the Company, the County and Haynsworth, Marion, McKay & Guerard, L.L.P. dated as of June 1, 1998 (the "Escrow Agreement") and other documents, pursuant to which certain property and improvements, including machinery and equipment, fixtures, and other personal property (collectively the "Project") were conveyed to the County and leased back to the Company under a fee-in-lieu of taxes ("FILOT") arrangement under Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the "Title Act");

(2) the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Non-Title Act"), to enter into a Fee Agreement with companies to induce such companies to locate in the State of South Carolina;

(3) Section 12-44-170(B) of the Non-Title Act provides for an election by an entity with property subject to an existing FILOT under the Title Act to transfer its FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act;

(4) the Company has requested that the County consent to its election to transfer the Company's FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act;

(5) the Company has caused to be prepared and presented to Council the form of a Fee Agreement between the Company and the County for the purpose of meeting the requirements under the Non-Title Act (the "1998 Fee Agreement");

(6) the 1998 Fee Agreement provides that the Company continues to be liable for payments of fees in lieu of taxes as calculated under the Lease Agreement;

(7) the 1998 Fee Agreement, attached to this ordinance, is in appropriate form and is an appropriate instrument to be approved, executed, and delivered by the County for the purposes intended;

(8) such other documents as attached to this ordinance, including, but not limited to, a Title to Real Estate, a Bill of Sale, an Agreement to Terminate Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement, an Agreement for the Termination of Memorandum of Lease and Option to Purchase and Indenture, are all in appropriate form and are appropriate instruments to be approved, executed, and delivered by the County for the purposes intended; and

(9) the Company has also requested the County's consent to the transfer of all of its existing FILOT arrangements including the 1998 Fee Agreement, the Fee Agreement dated as of October 27, 2008 (the "2008 Fee Agreement"), and the Fee Agreement dated as of June 23, 2014 (the "2014 Fee Agreement") and all assets subject to a FILOT in the County (collectively, the "Duracell Assets") to Duracell Manufacturing, Inc. ("DMI") in connection with the divestiture of the Duracell Assets to Berkshire Hathaway, Inc. (the "Proposed Transaction").

B. It is the purpose of this ordinance to provide for the approval of the above-referenced requests of the Company.

Section 2. Additional findings and determinations.

Council makes the following additional findings and determinations for purposes of the 1998 Fee Agreement, the 2008 Fee Agreement, the 2014 Fee Agreement, the transfer of the Duracell Assets, and the request for the transfer of the FILOT under the Title Act to a FILOT under the Non-Title Act:

(a) The Project will constitute a "project" as the term is referred to and defined in the Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Title Act.

(b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

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

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

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

(f) The benefits of the Project to the public will be greater than the costs to the public.

Section 3. Approval of transfer of FILOT arrangement.

To the extent necessary and required, the County, pursuant to the Non-Title Act, hereby expressly recognizes, consents to, approves, and ratifies for any and all purposes the transfer of the FILOT arrangement provided in the Lease Agreement with the Company under the Title Act to a FILOT arrangement under the Non-Title Act.

Section 4. Consent to transfer of title and cancellation of agreements.

In accordance with the Title Act and the Lease Agreement, the County consents to the transfer of title to all property both real and personal back to the Company and to the cancellation of the Lease Agreement and the Memorandum of Lease and Option to Purchase (to the extent said agreements are not cancelled by operation of law) without payment or penalty to the County under any such agreements, subject to the terms of the Agreement to Terminate Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement, the Agreement for the Termination of the Memorandum of Lease and Option to Purchase and Indenture, and the terms of the 1998 Fee Agreement.

Section 5. Approval of documents.

The form, terms, and provisions of (i) the 1998 Fee Agreement, attached hereto as Exhibit A; (ii) the Title to Real Estate, attached hereto as Exhibit B; (iii) the Bill of Sale, attached hereto as Exhibit C; (iv) the Agreement to Terminate Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement, attached hereto as Exhibit D; and (v) the Termination of Memorandum of Lease and Option to Purchase and Indenture, attached hereto as Exhibit E (collectively, Exhibits A, B, C, D and E are referred to as the "Documents") are approved. All of the terms, provisions, and conditions of the Documents are incorporated into this ordinance by reference as fully as if the Documents were set out in this ordinance in their entirety. The Council Chair and Council Secretary are each, individually, authorized, empowered, and directed to acknowledge, execute, and deliver the Documents to the Company. The Documents are to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Documents attached to this ordinance.

Section 6. Authority to act.

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Documents and the performance of all obligations of the County under and pursuant to the Documents. The County agrees to take such other actions as may be reasonably necessary to achieve the purposes stated in this ordinance and reasonably requested by the Company to evidence the consent, approval, and ratification of these matters described in this Ordinance.

Section 7. Consent of transfer to DMI.

The County consents to the transfer of all of the Duracell Assets, including the 1998 Fee Agreement, the 2008 Fee Agreement, and the 2014 Fee Agreement, by the Company to DMI and/or its subsidiaries upon closing of the Proposed Transaction.

Section 8. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 9. Controlling Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 10. Effective Date.

This ordinance is effective upon third reading.

AND IT IS SO ORDAINED, this 9th day of November, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

First Reading:	October 12, 2015	Passed 7-0
Second Reading:	October 26, 2015	Tentative
Public Hearing:	November 9, 2015	Tentative
Third Reading:	November 9, 2015	Tentative

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit A to Ordinance No. 2015-1377

1998 Fee Agreement

Lancaster County and The Gillette Company, as successor to Duracell Inc.

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

Exhibit A to Ordinance No. 2015-1377

FEE AGREEMENT

between

LANCASTER COUNTY, SOUTH CAROLINA

and

**THE GILLETTE COMPANY,
AS SUCCESSOR TO DURACELL INC.**

_____, 2015
Effective December 1, 1997

Transferring property under the fee in lieu of tax arrangement provided for in the Lease Agreement between Lancaster County, South Carolina and Duracell Inc., a Delaware corporation, dated as of June 1, 1998, to a fee agreement under Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended, to be effective as of December 1, 1997.

RECAPITULATION OF CONTENTS OF
FEE AGREEMENT PURSUANT TO S.C. CODE ANN. § 12-44-55(A)

The parties have agreed to waive this requirement pursuant to S.C. Code Ann. § 12-44-55(B).

FEE AGREEMENT

This FEE AGREEMENT (the "Agreement") made and entered into this ____ day of _____, 2015, to be effective as of the 1st day of December, 1997 ("Effective Date"), by and between LANCASTER COUNTY, SOUTH CAROLINA (hereinafter referred to as the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and THE GILLETTE COMPANY, AS SUCCESSOR TO DURACELL INC., a corporation duly organized and existing under the laws of the State of Delaware and authorized to do business in the State of South Carolina (hereinafter referred to as the "Company").

WITNESSETH:

WHEREAS, the County and the Company entered into an Inducement Agreement and Millage Rate Agreement dated January 26, 1998 (the "Inducement Agreement"), a Lease Agreement dated as of June 1, 1998 (the "Lease Agreement"), a Memorandum of Lease and Option to Purchase dated as of June 26, 1998 (the "Memorandum of Lease"), an Indenture dated as of June 1, 1998 (the "Indenture"), and an Escrow Agreement among the Company, the County and Haynsworth, Marion, McKay & Guerard, L.L.P. dated as of June 1, 1998 (the "Escrow Agreement") and other documents, pursuant to which certain property and improvements, including machinery and equipment, fixtures, and other personal property (collectively the "Project") were conveyed to the County and leased back to the Company under a fee-in-lieu of taxes ("FILOT") arrangement under Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the "Title Act"); and

WHEREAS, the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Non-Title Act"), to enter into a Fee Agreement with companies to induce such companies to locate in the State of South Carolina; and

WHEREAS, Section 12-44-170(B) of the Non-Title Act provides for an election by an entity with property subject to a FILOT arrangement under the Title Act to transfer its FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act; and

WHEREAS, the Company has requested that the County consent to its election to transfer the Company's FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act; and

WHEREAS, pursuant to Ordinance No. 2015-____, enacted by the County on _____, 2015 (the "Ordinance"), the County has consented to the transfer of the FILOT arrangement under the Title Act to a FILOT arrangement under the Non-Title Act and to the execution of a Fee Agreement and all other documents necessary to evidence the transfer; and

WHEREAS, the County has found that: (a) the Project (as defined herein) 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 any incorporated municipality and to no charge against its general credit or taxing power; (c) the purposes to be accomplished by the

Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

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

ARTICLE 1

DEFINITIONS

SECTION 1.1 Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

“Act” or “Non-Title Act” shall mean Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended.

“Administration Expenses” means the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Agreement, (ii) the preparation, review, approval and execution of other documents related to the Agreement and any multi-county park documents, including, but not limited to, any and all documents related to the transfer of the FILOT arrangement provided for in the Lease Agreement between Lancaster County, South Carolina and Duracell Inc., a Delaware corporation, dated as of June 1, 1998, to this Agreement; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof, but only in each case if such are incurred as a result of a request by the Company for a modification, assignment, or a termination of such documents by the Company, or as a result of a bankruptcy of the Company or a default by the Company under the terms of the aforementioned documents.

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

“Completed Segment” shall mean a segment of the Project completed after the date of the Inducement Agreement and up to the Minimum Investment Date.

“Cost” or “Cost of the Project” shall mean the cost of acquiring, by construction and purchase, the Project and shall be deemed to include, whether incurred prior to or after the Effective Date: (a) obligations of the Company incurred for labor, materials and other expenses to contractors, builders and materialmen in connection with the acquisition, construction and installation of the Project; (b) the cost of contract bond and of insurance of all kinds that may be required or necessary during the course of construction of the Project, which are not paid by the contractor or contractors or otherwise provided for; (c) the expenses of the Company for test borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction and installation of the Project; (d) all other costs which the Company shall be required to pay

under the terms of any contract or contracts for the acquisition, construction and installation of the Project; (e) costs incurred by the Company for the acquisition of an interest in the land upon which the Project is located; and (f) any sums required to reimburse the Company for advances made by it for any of the above items, or for any other work done and costs incurred by the Company which are for the acquisition of land or property of a character subject to the allowance for depreciation provided for under Section 167 of the Internal Revenue Code of 1986, as amended, and included in the Project.

"Company" shall mean The Gillette Company, a Delaware corporation and successor in interest to Duracell Inc. and any surviving, resulting or transferee corporation in any merger, consolidation or transfer of assets as permitted under the Act.

"County" shall mean Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina.

"County Council" shall mean the governing body of the County.

"Default" shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default as defined in Section 11.1 hereof.

"Department" means the South Carolina Department of Revenue or its successor entity.

"Equipment" shall have the meaning ascribed to it in Section 6.2 of this Agreement.

"Land" shall mean the real estate described in Exhibit A attached hereto.

"Minimum Investment Date" shall mean the date five (5) years from the end of the property tax year from which this Agreement is effective, as such date may have been extended from time to time.

"Person" shall mean and include any individual, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

"Plans and Specifications" shall mean the plans and specifications prepared for the Project, on file at the Company's office, as the same may be implemented and detailed from time to time and as the same may be revised from time to time prior to the completion of the acquisition, construction and installation of the Project in accordance with Section 4.3 hereof.

"Project" shall mean (i) all buildings and appurtenances which are presently under construction or are or have been constructed on the Land as of the Effective Date hereof, as they may at any time exist, including any air conditioning and heating systems (which shall be deemed fixtures); (ii) all buildings, structures, and appurtenances located on the Land; (iii) all machinery, equipment, furniture, fixtures or personal property located on the Land; (iv) all other machinery, equipment, other fixtures or personal property which is installed in or on the equipment described in clause (ii) or in the foregoing buildings or on the Land in substitution or replacement of parts of such equipment; and (v) any personal property acquired hereafter which

becomes so attached, integrated or affixed to any item described in the foregoing clauses (i), (ii), (iii) or (iv) that it cannot be removed without impairing the operating utility of such item as originally designed or damaging such item.

“Term” shall mean the duration of this Agreement as set forth in Section 5.1.

SECTION 1.2 References to Agreement. The words “hereof”, “herein”, “hereunder” and other words of similar import refer to this Agreement as a whole.

ARTICLE 2

REPRESENTATIONS AND COVENANTS

SECTION 2.1 Representations and Warranties by County. The County represents and warrants that: (i) it is a body politic and corporate and a political subdivision of the State; (ii) it is authorized by the Act to enter into this Fee Agreement; (iii) it has approved this Fee Agreement in accordance with the procedural requirements of the Act and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Fee Agreement.

SECTION 2.2 Representations and Warranties by Company. (a) The Company represents and warrants that it: (i) is or will be validly existing and in good standing under the laws of the state of organization or incorporation; (ii) is or will be authorized to transact business in the State of South Carolina; (iii) has the power to enter into this Fee Agreement; (iv) has by proper action approved this Fee Agreement; and (v) has authorized its officials to execute and deliver this Fee Agreement.

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

ARTICLE 3

[RESERVED]

ARTICLE 4

ACQUISITION BY CONSTRUCTION AND PURCHASE OF PROJECT; REVISION OF PLANS AND SPECIFICATIONS; AMENDMENTS TO EXHIBITS

SECTION 4.1 Acquisition by Construction and Purchase of Project. The Company hereby agrees to acquire by construction and purchase the Project in accordance with the Plans and Specifications and to acquire by construction and purchase all other things deemed necessary by the Company in connection with the Project. The Company agrees to maintain such records in connection with the acquisition by construction and purchase of the Project as to permit ready identification thereof. The Company represents and warrants that it expended for the acquisition

and expansion of the Project not less than \$45,000,000 within five (5) years from the Effective Date.

SECTION 4.2 [RESERVED]

SECTION 4.3 Revision of Plans and Specifications. The Company may revise the Plans and Specifications at any time and from time to time.

SECTION 4.4 [RESERVED]

SECTION 4.5 [RESERVED]

SECTION 4.6 [RESERVED]

ARTICLE 5

TERM

SECTION 5.1 Term. Subject to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect beginning on the Effective Date and ending on December 31, 2022, unless sooner terminated as herein permitted.

SECTION 5.2 Administration Expenses; Indemnification Payments. (A) The Company agrees to reimburse the County from time to time for its Administrative Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administrative Expenses.

(B) The Company agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual payment in lieu of taxes to be made pursuant to this Agreement, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at one thousand dollars (\$1000.00).

(C) The Company agrees to pay indemnification payments, as provided pursuant to Sections 8.10 and 8.15 of this Agreement, when and as they shall become due, but in no event later than thirty (30) days after receiving written notice from the County.

(D) In the event Company should fail to make any of the payments required in this Section 5.2, the item so in Default shall continue as an obligation of the Company until the amount in Default shall have been fully paid, and the Company agrees to pay the same with interest thereon (to the extent permitted by law) at the rate per annum which is equal to the prime rate until paid.

SECTION 5.3 [RESERVED]

SECTION 5.4 [RESERVED]

SECTION 5.5 [RESERVED]

ARTICLE 6

**REMOVAL OF EQUIPMENT; PAYMENTS IN LIEU OF TAXES;
AD VALOREM TAXES**

SECTION 6.1 [RESERVED]

SECTION 6.2 Removal of Equipment. The parties hereto understand that certain machinery, equipment and related property (herein "Equipment") shall be installed on the Land. If no Default under this Agreement shall have happened and be continuing, in any instance where the Company in its discretion determines that any items of Equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for operations on the Land, the Company may remove such items of Equipment from the Land and sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without consent of the County. The Company shall have the right, pursuant to the provisions of the Act, including Section 12-44-60 thereof, to replace any Equipment. Any additional payments due pursuant to Section 12-44-50(B)(2) of the Act as a result of the early termination of all or part of this Agreement with respect to all or part of the Project shall be due with the Company's tax bill for such year.

SECTION 6.3 Payments in Lieu of Taxes. It is recognized that under the Act, the County may provide for a payment in lieu of taxes by the Company for the Project. In accordance with the provisions of the Act, during the Term of the Agreement the Company shall make with respect to the Project (1) a payment equal to the taxes that would otherwise be due on any portion of the Project consisting of undeveloped land if it were taxable, and (2) twenty annual payments in lieu of taxes calculated as set forth in the next succeeding paragraph of this Agreement for each Completed Segment of the Project, including that portion of the Project consisting of substitution or replacement property; and (3) after the payments due pursuant to clause (2) hereinabove, then Completed Segment payments equal to normal ad valorem taxes.

Such annual payments under clause (2) above shall be subject to collection and enforcement as provided in Section 12-44-90 of the Act. The amount of such annual payments shall be determined by:

(a) Using an assessment ratio of 6%, a millage rate of 375.9 mills, and a fair market value estimate as determined by the Department using original cost less allowable depreciation for the personal property as provided in Section 12-37-930 of the Code; and

(b) And then determining an equal annual payment based on a net present value of the sum of the fees for the period of twenty annual payments in lieu of taxes not less than the net present value of the fee schedule as calculated pursuant to subitem (a) above and using a discount rate of 6.04%.

For each Completed Segment of the Project, the amount of each of the twenty annual payments in lieu of taxes shall be calculated using the methodology applied in the example contained in Schedule A.

The total payment due shall equal the sum of the payments due for each Completed Segment.

In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the Act and/or the herein-described payments in lieu of taxes invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof and so as to afford the Company with the benefits to be derived herefrom, the intention of the County being to offer the Company a strong inducement to locate and maintain the Project in the County. Reformation of the payments includes the County's agreement that in case the FILOT incentive described herein is found to be invalid or otherwise does not provide the Company with the economic benefit it is intended to receive from the County as an inducement to locate in the County, the savings lost as a result of such invalidity will be considered a special source revenue credit or infrastructure improvement credit to the Company to the maximum extent permitted by law, and the County will provide a special source revenue credit or infrastructure improvement credit against all FILOT payments or fee payments made or to be made by the Company equal to the amount that the Company would have saved if the FILOT had been valid, to the maximum extent permitted by law. If the Project is deemed to be subject to *ad valorem* taxation, this Agreement shall terminate, and the Company shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company. Any amount determined to be due and owing to the County from the Company, with respect to a year or years for which the Company previously remitted payments in lieu of taxes to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company would be entitled if the Project was not and had not been subject a fee-in-lieu of tax arrangement under the Act; and (ii) be reduced by the total amount of payments in lieu of taxes the Company had made with respect to the Project pursuant to the terms hereof. Notwithstanding anything contained herein to the contrary, neither the Company nor any successor in title or interest shall be required to pay FILOT payments and *ad valorem* taxes for the same property over the same period in question.

In the event that the Cost of the Project has not exceeded \$45,000,000 by the fifth anniversary of the Effective Date, the portions of the Project subject to this Agreement shall revert retroactively to the tax treatment required pursuant to the Act and the unpaid taxes due thereby shall be subject to interest as provided in Section 12-54-25 of the Code.

SECTION 6.4 Ad Valorem Taxes. The County and the Company acknowledge that pursuant to the Act, no part of the Project subject to this Agreement will be subject to ad valorem taxation in South Carolina.

SECTION 6.5 [RESERVED]

SECTION 6.6 Annual Filings.

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

(B) The Company shall cause the filing of a copy of this Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor of the County and Chester County and the Department within 30 days after the date of execution and delivery of this Agreement by all parties.

SECTION 6.7 Cessation of Operations. Notwithstanding any other provision of this Agreement, the Company acknowledges and agrees that County's obligation to provide the FILOT incentive ends, and this Agreement is terminated, if the Company ceases operations. For purposes of this Section 6.7, "ceases operations" means closure of the facility. The Company agrees that if the Agreement is terminated pursuant to this section, that under no circumstance shall the County be required to refund or pay any monies to the Company.

ARTICLE 7

CASUALTY AND CONDEMNATION

SECTION 7.1 Damage and Destruction. [RESERVED]

SECTION 7.2 [RESERVED]

SECTION 7.3 [RESERVED]

ARTICLE 8

PARTICULAR COVENANTS AND AGREEMENTS

SECTION 8.1 [RESERVED]

SECTION 8.2 [RESERVED]

SECTION 8.3 [RESERVED]

SECTION 8.4 [RESERVED]

SECTION 8.5 Right to Inspect; Confidential Information.

(A) The Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all the Company's books and records pertaining to the Project. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by the Company to protect the

Company's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project shall be at the County's expense.

(B) The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Company's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Company and could have a significant detrimental impact on the Company's employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Company, its agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any person or entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Company and give the Company the opportunity to contest the release.

SECTION 8.6 [RESERVED]

SECTION 8.7 Limitation of County's Liability. Anything in this Agreement to the contrary notwithstanding, any obligation the County may incur under this Agreement, including for the payment of money, shall not be deemed to constitute a debt or general obligation of the County but shall be payable solely and exclusively from the revenues and receipts derived by the County from this Agreement.

SECTION 8.8 [RESERVED]

SECTION 8.9 [RESERVED]

SECTION 8.10 Indemnification.

(A) The Company shall and agrees to indemnify and save the County harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the Term of this Agreement, and, Company further shall indemnify and save the County harmless against and from all claims arising during the Term of this Agreement from (i) any condition of the Project; (ii) any breach or default on the part of Company in the performance of any of its obligations under this Agreement; (iii) any act of negligence of Company or any of its agents, contractors, servants, employees or licensees, (iv) any act of negligence of any assignee or sublessee of Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of Company, or (v) any environmental violation, condition, or effect. Company shall indemnify and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or

proceeding brought thereon, and upon notice from the County, Company shall defend in any such action, prosecution or proceeding it.

(B) Notwithstanding the fact that it is the intention of the parties that the County, its agents, officers, or employees, shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the performance of any act requested of it by the Company, or the operation of the Project by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County, its agents, officers or employees should incur any such pecuniary liability, then in such event the Company shall indemnify and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding.

(C) The County shall not be indemnified by Sections 8.10(a) and (b) above as to intentional or wanton acts of the County or its agents.

SECTION 8.11 [RESERVED]

SECTION 8.12 Qualification in State. The Company warrants that it is duly qualified to do business in the State of South Carolina and covenants that it will continue to be so qualified so long as it operates the Project.

SECTION 8.13 No Liability of County's Personnel. All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the County and not of any member of the County Council or any officer, agent, servant or employee of the County in his individual capacity, and no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, agent, servants or employee of the County.

SECTION 8.14 [RESERVED]

SECTION 8.15 Environmental Representations; Environmental Indemnity. The Company warrants and represents to the County, after thorough investigation on or prior to the Effective Date that (a) the Project and the Land as of the Effective Date and at all times thereafter while it was leased by the Company under the Lease Agreement was in reasonable compliance with all federal, state, and local environmental laws and regulations, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Public Law No. 96-510, 94 Stat. 2767, 42 USC 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law No. 99-499, 100 Stat. 1613, and (b)(i) as of the Effective Date and at all times thereafter, to the best of the Company's knowledge, there were no hazardous materials, substances, waste or other environmentally regulated substances (including without limitation, any materials containing asbestos) located on, in or under the Project and the Land or used in connection therewith, which

the Company was not permitted by law, regulation or the conditions of a permit to maintain on, in or under the Project and the Land or use in connection herewith, and the Company has obtained and has maintained all licenses, permits and approvals required with respect thereto, and was in full compliance with all of the terms, conditions and requirements of such licenses, permits and approvals. The Company hereby indemnifies and agrees to hold the County harmless from and against any damages, fines, charges, expenses, fees, attorney fees and costs incurred by the County in the event the County as lessor under the Lease Agreement is hereafter determined to be in violation of any environmental laws, rules or regulations applicable thereto, and this indemnity shall survive any foreclosure, deed in lieu of foreclosure and termination of the Lease Agreement. This indemnity includes, but is not limited to, any damages, claims and fees arising out of any claim for loss or damage to property or persons, contamination of or adverse effect on the environment, or any violation of statutes, ordinances, orders, rules or regulations of any governmental agency or entity, caused by or resulting from any hazardous material, substance or waste previously, now or hereafter on or under the Project.

ARTICLE 9

ASSIGNMENT OF PROJECT

SECTION 9.1 Assignment.

(A) If Section 12-44-120 of the Act or any successor provision requires consent to an assignment, the Company may only assign this Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which consent or ratification the County will not unreasonably withhold. The Company agrees to notify the County and the Department of the identity of any transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Project for purposes of calculating the FILOT. No approval is required for transfers to sponsor affiliates or other financing related transfers, as defined in the Act.

(B) The County understands that the Company, or its controlling shareholder Procter & Gamble ("P&G"), is a party to a proposed transaction with Berkshire Hathaway, Inc. to divest the Duracell business (the "Proposed Transaction"). The County expressly agrees and provides its consent for P&G to assign this Agreement in full to Duracell Manufacturing, Inc. and/or its subsidiaries upon closing of the Proposed Transaction.

SECTION 9.2 [RESERVED]

ARTICLE 10

PURCHASE AND OPTION TO PURCHASE PROJECT; PURCHASE PRICE

[RESERVED]

ARTICLE 11

EVENTS OF DEFAULT AND REMEDIES

SECTION 11.1 Events of Default. Any one or more of the following events (herein called "Event of Default", or collectively "Events of Default") shall constitute an Event of Default:

(a) if Default shall be made in the due and punctual payment of any fee in lieu of tax payments due hereunder;

(b) if the Company shall assign this Agreement, otherwise than as expressly permitted pursuant to Section 9.1 hereof;

(c) if Default shall be made by the Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing subdivisions (a) or (b) and such default shall (i) continue for 30 days after the Company shall have given the Company written notice of such Default or a responsible officer of the Company shall otherwise have actual notice thereof, or (ii) in the case of any such Default which can be cured but which cannot with due diligence be cured within such 30-day period, if the Company shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such Default with due diligence, it being intended in connection with the Default not susceptible of being cured with due diligence within 30 days that the time of the Company within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence;

(d) if the Company shall file a voluntary petition seeking an order for relief in bankruptcy, or shall be adjudicated insolvent, or shall file any petition or answer or commence a case seeking any reorganization, composition, readjustment, liquidation or similar order for relief or relief for itself under any present or future statute, law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Company or of the Project, or shall make any general assignment for the benefit of credits, or shall admit in writing its inability to pay its debts generally as they become due;

(e) if a petition shall be filed or a case shall be commenced against Company seeking an order for relief in bankruptcy or any reorganization, composition, readjustment, liquidation or similar relief under any present or future statute, law or regulation, and shall remain undismissed or unstayed for an aggregate of 30 days (whether or not consecutive), or if any trustee, receiver or liquidator of the Company or of all or any substantial part of its properties or of the Project shall be appointed without the consent or acquiescence of the Company and such appointment shall remain unvacated or unstayed for an aggregate of 30 days (whether or not consecutive);

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

(g) If the Company shall abandon the Project; or

(h) If the Company shall dissolve or fail to maintain its separate corporate existence without prior assignment of this Agreement pursuant to Section 9.1 hereof.

SECTION 11.2 Remedies on Event of Default. Upon the occurrence of any Event of Default, the County at its option: (i) may terminate this Agreement as to one or more Completed Segments by 30 days' notice in writing specifying the termination date and the Completed Segments to be terminated; (ii) may have access to and inspect, examine and make copies of, the books, records and accounts of the Company pertaining to the Project; or (iii) may take whatever action at law or in equity as may appear necessary or desirable to collect any amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition or agreement of the Company under this Agreement.

SECTION 11.3 Company's Obligations to Survive Repossession and Termination. Except as hereinafter provided, no termination of the Term of the Agreement hereof shall relieve the Company of its liability and obligations to make the payments required by Sections 5.2, 8.10 and 8.15 hereof, all of which shall survive any such termination.

ARTICLE 12

MISCELLANEOUS

SECTION 12.1 Rights and Remedies Cumulative. Each right, power and remedy of the County or of the Company provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Company of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company of any or all such other rights, powers and remedies.

SECTION 12.2 Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 12.3 Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Company, shall be in writing, and shall be deemed to be properly given or made if sent by United States first class mail, post prepaid addressed as follows or at such other places as may be designated in writing by such party.

IF TO THE COUNTY:

Lancaster County, South Carolina
Attn: County Administrator
101 N. Main St. (29720)
P.O. Box 1809 (29721)
Lancaster, SC

WITH A COPY TO:

Lancaster County, South Carolina
Attn: County Attorney
101 N. Main St. (29720)
P.O. Box 1809 (29721)
Lancaster, SC

IF TO THE COMPANY:

Duracell Inc.
1551 Highway 9, Bypass West
Lancaster, South Carolina 29620
Attention: President

SECTION 12.4 Applicable Law; Entire Understanding. This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of South Carolina. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

SECTION 12.5 Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of each clause or provision shall not affect any of the remaining provisions hereof.

SECTION 12.6 Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular Articles or Sections or subdivisions of this Agreement are references to the designated Articles or Sections or subdivision of this Agreement.

SECTION 12.7 Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

SECTION 12.8 [RESERVED]

SECTION 12.9 Amendments. This Agreement may be amended only by a writing signed by both parties.

SECTION 12.10 Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

SECTION 12.11 Intent of the Parties; Waiver of Recapitulation.

(A) Notwithstanding anything contained herein to the contrary, and in accordance with Section 12-44-170(B) of the Act, (i) the fee payments due hereunder shall in no event be less or more than, or be for a duration shorter or longer than, the fee payments that would be due if the Lease Agreement were continued; and (ii) any minimum investment or employment requirements under the Lease Agreement are hereby carried over to this Agreement. It is the intent of the parties that this Agreement will not affect the economic benefit and rights and obligations intended to be created by the Lease Agreement to the Company and the County, but is merely entered into in order to continue the fee in lieu of taxes arrangement previously entered into through the Lease Agreement but without the County having title to the assets subject to the fee in lieu of taxes, all in accordance with Section 12-44-170 of the Act.

(B) Pursuant to Section 12-44-55(B) of the Act, the County and the Company waive any and all compliance with any and all of the provisions, items, or requirements of Section 12-44-55 of the Act.

SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the County, acting by and through its Council, has caused this Agreement to be executed in its name and on its behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council, and The Gillette Company has executed this Agreement by causing its corporate name to be hereunto subscribed by its President or a Vice President and its corporate seal to be impressed hereon and attested to by its Secretary or Assistant Secretary, all being done as of the day and year first above written.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

THE GILLETTE COMPANY

Signature: _____

Name: _____

Its: _____

ATTEST:

_____, Assistant Secretary

EXHIBIT A

All those certain pieces, parcels or tracts of land, lying, being and situate in Can Creek Township, Lancaster County, South Carolina, on the North side of South Carolina Road S-29-518, known as Hawthorne Road, containing a total of four and five tenths (4.5) acres, more or less, and being shown, described and designated as Tracts "A" 4.160 Acres and "B" 0.340 AC. IN R/W" on plat of survey made by Enfinger & Associates, dated June 28, 1995, entitled "PLAT OF BOUNDARY SURVEY FOR DURACELL INTERNATIONAL INC. (DURACELL U.S.A.)" and recorded in the Office of the Clerk of Court for Lancaster County, South Carolina, referenced to said plat is craved for a more minute description.

EXHIBIT B

[RESERVED]

EXHIBIT C

[RESERVED]

SCHEDULE A

Year of Payment	Standard Tax with Abatement	Bill of Materials	Investment Cost	2nd Year Cost	3rd Year Cost	4th Year Cost	5th Year Cost	Total Cost	Net Savings If not Paid	40% Fee for Savings
1899	\$562,495	\$371,104	\$224,377	\$210,808	\$184,532	\$161,724	\$111,907	\$371,104	\$181,592	\$148,442
2000	\$937,844	\$228,387	\$224,377	\$210,808	\$184,532	\$161,724	\$111,907	\$371,104	\$285,080	\$221,105
2001	\$1,059,987	\$283,070	\$269,645	\$250,042	\$218,216	\$193,817	\$148,169	\$371,104	\$399,853	\$324,325
2002	\$1,191,990	\$242,953	\$242,953	\$218,216	\$193,817	\$161,724	\$111,907	\$371,104	\$495,000	\$394,584
2003	\$1,179,482	\$200,297	\$141,181	\$103,216	\$84,419	\$64,612	\$44,805	\$371,104	\$591,027	\$461,256
2004	\$1,013,479	\$157,520	\$113,448	\$76,623	\$57,817	\$38,010	\$24,203	\$371,104	\$687,050	\$534,587
2005	\$820,639	\$148,033	\$88,717	\$62,826	\$43,013	\$28,206	\$17,399	\$371,104	\$783,073	\$608,589
2006	\$642,635	\$77,086	\$57,985	\$38,029	\$24,211	\$15,303	\$9,196	\$371,104	\$879,096	\$674,591
2007	\$472,697	\$64,319	\$30,263	\$24,211	\$15,303	\$9,196	\$5,100	\$371,104	\$975,119	\$740,613
2008	\$398,037	\$54,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,071,142	\$806,636
2009	\$293,416	\$44,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,167,165	\$862,659
2010	\$261,675	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,263,188	\$938,682
2011	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,359,211	\$1,034,705
2012	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,455,234	\$1,130,728
2013	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,551,257	\$1,226,751
2014	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,647,280	\$1,322,774
2015	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,743,303	\$1,418,797
2016	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,839,326	\$1,514,820
2017	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$1,935,349	\$1,610,843
2018	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$2,031,372	\$1,706,866
2019	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$2,127,395	\$1,802,889
2020	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$2,223,418	\$1,898,912
2021	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$2,319,441	\$1,994,935
2022	\$257,578	\$34,319	\$24,211	\$15,303	\$9,196	\$5,100	\$3,100	\$371,104	\$2,415,464	\$2,090,958

**Duracell Inc.
Levelized Payment Method**

Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	Total	Balance Item	20%
Standard Tax	First	First	First	First	First	First	First	SPR
1998	\$562,495	\$156,716				\$156,716	\$408,780	\$62,686
2000	\$837,844	\$156,716	\$85,185			\$241,911	\$455,533	\$68,764
2001	\$1,059,667	\$156,716	\$85,185			\$324,232	\$735,455	\$129,693
2002	\$1,191,890	\$156,716	\$85,185			\$394,286	\$787,602	\$157,719
2003	\$1,179,482	\$156,716	\$85,185			\$436,751	\$876,723	\$174,700
2004	\$1,013,479	\$156,716	\$85,185			\$436,751	\$383,866	\$174,700
2005	\$820,639	\$156,716	\$85,185			\$436,751	\$163,674	\$174,700
2006	\$620,825	\$156,716	\$85,185			\$436,751	\$35,095	\$174,700
2007	\$472,507	\$156,716	\$85,185			\$436,751		\$174,700
2008	\$365,037	\$156,716	\$85,185			\$436,751		\$174,700
2009	\$283,415	\$156,716	\$85,185			\$436,751		\$174,700
2010	\$261,976	\$156,716	\$85,185			\$436,751		\$174,700
2011	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2012	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2013	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2014	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2015	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2016	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2017	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2018	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2019	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2020	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2021	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700
2022	\$257,578	\$156,716	\$85,185			\$436,751		\$174,700

TREASURY BONDS, NOTES & BILLS

Deutsche

Treasury Bonds, Notes and Bills are sold by the U.S. Treasury Department through the U.S. Treasury Auction. The Treasury Department is responsible for the management of the U.S. Treasury's debt. The Treasury Department issues Treasury bonds, notes, and bills to raise money for the U.S. government. The Treasury Department also manages the U.S. Treasury's cash and investments. The Treasury Department is responsible for the U.S. Treasury's financial operations. The Treasury Department is also responsible for the U.S. Treasury's tax collection. The Treasury Department is the largest agency in the U.S. government. The Treasury Department is responsible for the U.S. Treasury's financial operations. The Treasury Department is also responsible for the U.S. Treasury's tax collection. The Treasury Department is the largest agency in the U.S. government.

Symbol	Issue Date	Par Value	Yield	Price	Change
91-02-28	2/28/91	100.00	7.125	100.00	0.00
91-05-28	5/28/91	100.00	7.125	100.00	0.00
91-08-28	8/28/91	100.00	7.125	100.00	0.00
91-11-28	11/28/91	100.00	7.125	100.00	0.00
92-02-28	2/28/92	100.00	7.125	100.00	0.00
92-05-28	5/28/92	100.00	7.125	100.00	0.00
92-08-28	8/28/92	100.00	7.125	100.00	0.00
92-11-28	11/28/92	100.00	7.125	100.00	0.00
93-02-28	2/28/93	100.00	7.125	100.00	0.00
93-05-28	5/28/93	100.00	7.125	100.00	0.00
93-08-28	8/28/93	100.00	7.125	100.00	0.00
93-11-28	11/28/93	100.00	7.125	100.00	0.00

Symbol	Issue Date	Par Value	Yield	Price	Change
91-02-28	2/28/91	100.00	7.125	100.00	0.00
91-05-28	5/28/91	100.00	7.125	100.00	0.00
91-08-28	8/28/91	100.00	7.125	100.00	0.00
91-11-28	11/28/91	100.00	7.125	100.00	0.00
92-02-28	2/28/92	100.00	7.125	100.00	0.00
92-05-28	5/28/92	100.00	7.125	100.00	0.00
92-08-28	8/28/92	100.00	7.125	100.00	0.00
92-11-28	11/28/92	100.00	7.125	100.00	0.00
93-02-28	2/28/93	100.00	7.125	100.00	0.00
93-05-28	5/28/93	100.00	7.125	100.00	0.00
93-08-28	8/28/93	100.00	7.125	100.00	0.00
93-11-28	11/28/93	100.00	7.125	100.00	0.00

Symbol	Issue Date	Par Value	Yield	Price	Change
91-02-28	2/28/91	100.00	7.125	100.00	0.00
91-05-28	5/28/91	100.00	7.125	100.00	0.00
91-08-28	8/28/91	100.00	7.125	100.00	0.00
91-11-28	11/28/91	100.00	7.125	100.00	0.00
92-02-28	2/28/92	100.00	7.125	100.00	0.00
92-05-28	5/28/92	100.00	7.125	100.00	0.00
92-08-28	8/28/92	100.00	7.125	100.00	0.00
92-11-28	11/28/92	100.00	7.125	100.00	0.00
93-02-28	2/28/93	100.00	7.125	100.00	0.00
93-05-28	5/28/93	100.00	7.125	100.00	0.00
93-08-28	8/28/93	100.00	7.125	100.00	0.00
93-11-28	11/28/93	100.00	7.125	100.00	0.00

GOVERNMENT AGENCY & SIMILAR ISSUES

Symbol	Issue Date	Par Value	Yield	Price	Change
91-02-28	2/28/91	100.00	7.125	100.00	0.00
91-05-28	5/28/91	100.00	7.125	100.00	0.00
91-08-28	8/28/91	100.00	7.125	100.00	0.00
91-11-28	11/28/91	100.00	7.125	100.00	0.00
92-02-28	2/28/92	100.00	7.125	100.00	0.00
92-05-28	5/28/92	100.00	7.125	100.00	0.00
92-08-28	8/28/92	100.00	7.125	100.00	0.00
92-11-28	11/28/92	100.00	7.125	100.00	0.00
93-02-28	2/28/93	100.00	7.125	100.00	0.00
93-05-28	5/28/93	100.00	7.125	100.00	0.00
93-08-28	8/28/93	100.00	7.125	100.00	0.00
93-11-28	11/28/93	100.00	7.125	100.00	0.00



You may not be surprised by the fact that the U.S. Treasury Department is the largest agency in the U.S. government. The Treasury Department is responsible for the U.S. Treasury's financial operations. The Treasury Department is also responsible for the U.S. Treasury's tax collection. The Treasury Department is the largest agency in the U.S. government.

Exhibit B to Ordinance No. 2015-1377

Title to Real Estate

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

Exhibit B to Ordinance No. 2015-1377

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that Lancaster County, South Carolina, a body corporate and politic and a subdivision of the State of South Carolina (the "Grantor") for and in consideration of One Dollar (\$1.00) has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto The Gillette Company, a corporation organized and existing under the laws of the State of Delaware (the "Grantee").

(See Exhibit A attached hereto for a legal description)

Grantee's Address:

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned under the Grantee, and Grantee's successors and assigns, forever. And, the Grantor does hereby bind the Grantor and the Grantee's successors and assigns, to warrant and forever defend all and singular said premises unto the Grantee and the Grantee's successors and/or assigns against the Grantor and the Grantor's successors and assigns (except as to Permitted Encumbrances) but not as to any other person whomsoever may claim.

WITNESS the Grantor's hand and seal this day of , 2015.

SIGNED, sealed and delivered in the presence of:

WITNESSES: LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER) PROBATE

PERSONALLY appeared before me _____, who being duly sworn says that (s)he saw the corporate seal of Lancaster County, South Carolina, affixed to the foregoing Deed and that (s)he also saw Bob Bundy, as Council Chair, Steve Harper, as Council Secretary, and Debbie C. Hardin, as Clerk to Council, sign and attest the same and that (s)he with _____ witnessed the execution and deliver thereof as the act and deed of Lancaster County, South Carolina

Witness

SWORN to before me this
____ day of _____, 2015

(L.S.)
Notary Public for South Carolina
My Commission expires: _____

EXHIBIT A

Exhibit A

All those certain pieces, parcels or tracts of land, lying, being and situate in Can Creek Township, Lancaster County, South Carolina, on the North side of South Carolina Road S-29-518, known as Hawthorne Road, containing a total of four and five tenths (4.5) acres, more or less, and being shown, described and designated as Tracts "A" 4.160 Acres and "B" 0.340 AC. IN R/W" on plat of survey made by Enfinger & Associates, dated June 28, 1995, entitled "PLAT OF BOUNDARY SURVEY FOR DURACELL INTERNATIONAL INC. (DURACELL U.S.A.)" and recorded in the Office of the Clerk of Court for Lancaster County, South Carolina, referenced to said plat is craved for a more minute description.

Being a portion of the property conveyed to Duracell, Inc. by deed of Pat O. Love, dated November 9, 1995 and recorded on November 9, 1995, in the Office of the Clerk of Court for Lancaster County, South Carolina in Deed Book M-13 at page 338.

Exhibit C to Ordinance No. 2015-1377

Bill of Sale

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

Exhibit C to Ordinance No. 2015-1377

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER) **BILL OF SALE**

This BILL OF SALE (the "Bill of Sale") is given this ____ day of _____, 2015, by LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the "County") to THE GILLETTE COMPANY, a Delaware corporation, or any successor thereof pursuant to the Lease (as defined below) (the "Company").

RECITALS:

Pursuant to an ordinance dated March 30, 1998 (the "Ordinance"), the County Council of Lancaster County, South Carolina (the "County Council"), authorized the issuance by the County of Lancaster County, South Carolina, Industrial Revenue Bond in an aggregate amount not exceeding \$80,000,000 (the "Bond") for the purpose of financing the cost of the acquisition, by construction and purchase, of land, buildings, improvements, machinery, equipment and fixtures which shall constitute a manufacturing facility for the manufacturing of batteries and components in the County (the "Project").

As contemplated by the Ordinance, the Tenant conveyed title to the Project to the County, including the Completed Segments, on or before each advance under the Bond by bills of sale and by a title to real estate. Pursuant to a Lease Agreement dated as of June 1, 1998 (the "Lease"), between the County and the Tenant, the County leased the Project (including each Completed Segment thereof) back to the Tenant in return for rental payments that are exactly equal and fully sufficient to make the payments due under the Bond by the County. Pursuant to Article 10 of the Lease, the Tenant may, at its option, reacquire the title to the Project or any portion thereof by bill of sale or title to real estate from the County. Pursuant to an Escrow Agreement dated as of June 1, 1998 (the "Escrow Agreement"), among the County, the Company, and Haynsworth, Marion, McKay & Guerard, L.L.P. as Escrow Agent (the "Escrow Agent"), the Escrow Agent, among other duties, is to hold the specific description of all machinery and equipment which is a part of the Project.

The Company has requested the County's consent and the County has agreed to consent to the Company's election to transfer the Project back to the Company pursuant to Section 12-44-170(B) of the Code of Laws of South Carolina 1976, as amended.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the County does hereby grant, bargain, sell, transfer, and convey to the Company all the capital assets, including but not limited to, all real estate

improvements (if any) , machinery, equipment, and fixtures acquired in whole or in part from the proceeds of the Bond together with any and all additions, accessions, replacements and substitutions thereto or therefore that were transferred to the County directly or were reported for fee in lieu of tax purposes as subject to the Lease Agreement, including but not limited to the property being more particularly described on Exhibit A attached hereto.

The County represents and warrants that it is the true and lawful owner of all of the property described herein; and that it has full power, right and lawful authority to sell the said property. The County further agrees that it will forever warrant and defend the title to said property.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit A

All property and assets owned by the County and leased to the Company under the Lease.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit D to Ordinance No. 2015-1377

**Agreement to Terminate
Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement**

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

Exhibit D to Ordinance No. 2015-1377

**AGREEMENT TO TERMINATE LEASE AGREEMENT,
INDENTURE, INDUSTRIAL REVENUE BONDS, AND ESCROW AGREEMENT**

This AGREEMENT TO TERMINATE LEASE AGREEMENT, INDENTURE, INDUSTRIAL REVENUE BONDS, AND ESCROW AGREEMENT (the "Agreement") is entered into to be effective as of this ____ day of _____, 2015 ("Termination Date") by and between LANCASTER COUNTY, SOUTH CAROLINA (the "County") and THE GILLETTE COMPANY, as successor to Duracell Inc. (the "Company").

WITNESSETH

WHEREAS, the County has entered into a fee in lieu of taxes arrangement (the "FILOT Transaction") under Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the "Title Act") with the Company, in connection with which the Company transferred title to certain property (collectively, the "Project") to the County, and the County and the Company entered into a Lease Agreement dated as of June 1, 1998 ("Lease Agreement"), and an Indenture dated as of June 1, 1998 ("Indenture"), as well as an Escrow Agreement among the Company, the County, and Haynsworth, Marion, McKay & Guerard, L.L.P. ("Escrow Agreement"), as escrow agent (the "Escrow Agent"), pursuant to which the County leased the Project back to the Company; and

WHEREAS, in connection with the FILOT Transaction, the County issued not exceeding \$80,000,000 Lancaster County, South Carolina Industrial Revenue Bonds, Series 1998 (Duracell Inc. Project) (the "Bonds"), which Bonds were purchased by the Company; and

WHEREAS, the Company desires to transfer (the "Transfer") the Project from the arrangement under the Title Act to an arrangement under Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Non-Title Act") in accordance with Section 12-44-170(B) of the Non-Title Act; and

WHEREAS, the County and Company, in furtherance of the desire to transfer property from an arrangement under the Title Act to one under the Non-Title Act and pursuant to and in consideration of the terms and conditions contained herein, desire to terminate the Lease Agreement, the Indenture, the Bonds, and the Escrow Agreement, prior to the scheduled expiration of the terms thereof and enter into a fee in lieu of tax agreement pursuant to the Non-Title Act.

NOW THEREFORE, based on the foregoing and for the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The Lease Agreement, the Indenture, the Bonds, and the Escrow Agreement shall terminate on the Termination Date, without liability or penalty. The Inducement Agreement and Millage Rate Agreement between the Company and the County dated January 26, 1998 shall remain in effect but only to the extent required in order to continue the benefits of the FILOT under the Non-Title Act.

2. Effective as of the Termination Date, the Company does hereby waive, release, relieve, and forever discharge the Escrow Agent from any and all causes of action, liabilities, claims, or other demands of any kind or character which it may have against the Escrow Agent with respect to, or in connection with, the Escrow Agreement, or arising therefrom on and after the Termination Date.

3. The County and the Company agree that the sole intent of the Transfer is to convert the FILOT arrangement from the Title Act to the Non-Title Act and not to terminate, alter or modify the incentives provided to the Company under the FILOT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or have caused their duly authorized representatives to execute the same, to be effective as of the day and year first above written.

WITNESSES:

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

WITNESSES:

THE GILLETTE COMPANY

By: _____

Name: _____

Its: _____

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit E to Ordinance No. 2015-1377

Agreement for the Termination of Memorandum of Lease and Option to Purchase and Indenture

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

Exhibit E to Ordinance No. 2015-1377

**STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)**

**AGREEMENT FOR THE TERMINATION OF
MEMORANDUM OF LEASE AND OPTION TO
PURCHASE AND INDENTURE**

This AGREEMENT FOR THE TERMINATION OF MEMORANDUM OF LEASE AND OPTION TO PURCHASE AND INDENTURE (the “Agreement”) effective as of the ____ day of _____, 2015, and is by and between LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”) and THE GILLETTE COMPANY, as successor to Duracell Inc., a corporation duly organized and existing under the laws of the State of Delaware and authorized to do business in the State of South Carolina (the “Company”).

RECITALS:

WHEREAS, the County and the Company entered into (i) a Memorandum of Lease and Option to Purchase dated as of June 1, 1998 (the "MOL"), and (ii) an Indenture dated as of June 1, 1998 (the "Indenture") in connection with a fee in lieu of taxes ("FILOT") transaction between the Company and the County pursuant to Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the "Title Act"); and

WHEREAS, the MOL was recorded in the Office of the Clerk of Court for Lancaster County ("Clerk's Office") in Book 0015 at Page 0086 in order to record the terms of a Lease Agreement between the County and the Company and the Indenture was recorded in Book 0601 at Page 0071 of the Clerk's Office; and

WHEREAS, pursuant to Ordinance No. 2015-____, enacted by the County on _____, 2015, the County consented to the transfer of the FILOT under the Title Act to a FILOT transaction under Title 12, Chapter 44 of the Code (the "Non-Title Act") and to the execution of a Fee Agreement and all other documents necessary to evidence such transfer; and

WHEREAS, the parties now desire to terminate the MOL and the Indenture.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Company agree the MOL and the Indenture are hereby terminated. The Company shall record this Agreement in the office of the Lancaster County Register of Deeds.

[Signature Page Follows.]

IN WITNESS WHEREOF, the undersigned have executed this Agreement under seal as of the date first written above.

WITNESSES:

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

WITNESSES:

THE GILLETTE COMPANY

By: _____

Name: _____

Title: _____

[illegible]

I, _____, Notary Public for the State of South Carolina, do hereby certify that THE GILLETTE COMPANY, by _____, its _____, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this ____ day of _____, 2015.

_____(L.S.)
Notary Public, State of _____

My Commission Expires: _____
NOTARIAL SEAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

I, _____, Notary Public for the State of South Carolina, do hereby certify that LANCASTER COUNTY, SOUTH CAROLINA, by Bob Bundy, Council Chair, Steve Harper, Council Secretary, as attested by Debbie C. Hardin, Clerk to Council, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this ____ day of _____, 2015.

_____(L.S.)
Notary Public, State of South Carolina

My Commission Expires: _____
NOTARIAL SEAL

Agenda Item Summary

Ordinance # 2015-1352

Contact Person / Sponsor: John Weaver

Department: County Attorney

Date Requested to be on Agenda: October 26, 2015

Committee: I&R (Favorable Recommendation)



Issue for Consideration: Whether or not it is appropriate to consider passage of this Ordinance that involves the Master Multi-County Park (MCP) Agreement between Lancaster County and Chesterfield County.

Points to Consider: In December, 2013, Lancaster County entered into an Agreement noted above. This ordinance authorizes two (2) amendments to that ordinance, namely:

1. A non-host county may agree for the host county to accept property into the MCP by a one-vote Resolution rather than by a three reading ordinance;
2. This ordinance adds various parcels of property in both Lancaster County and Chesterfield County to the MCP as noted in Exhibits A and B that accompany the ordinance. It is anticipated that other parcels will be added as additional economic development opportunities arise.

Funding and Liability Factors: N/A

Council Options: approval or rejection (denial) of the Ordinance.

Recommendation: Approval.

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

)
)
)

ORDINANCE NO. 2015-1352

AN ORDINANCE

TO AUTHORIZE AND APPROVE AN AMENDED AND RESTATED MASTER MULTI-COUNTY PARK AGREEMENT BETWEEN CHESTERFIELD COUNTY, SOUTH CAROLINA AND LANCASTER COUNTY, SOUTH CAROLINA; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and determinations; Purpose.

(A) The Council finds and determines that:

(1) Lancaster County, South Carolina ("Lancaster County") is authorized by Article VIII, Section 13(D) of the South Carolina Constitution and by Sections 4-1-170, -172 and -175 of the Code of Laws of South Carolina 1976, as amended, to jointly develop, in conjunction with contiguous counties, industrial and business parks (each a "Multi-County Park"); and

(2) Lancaster County and Chesterfield County, South Carolina ("Chesterfield County"), are contiguous counties; and

(3) Pursuant to Ordinance No. 2013-14-08, enacted by Chesterfield County Council on December 4, 2013, and Ordinance No. 2013-1230 enacted by Lancaster County Council on December 9, 2013, Lancaster County and Chesterfield County approved a Master Multi-County Park Agreement dated as of December 9, 2013 which provided for the establishment of a Multi-County Park (the "Original Park Agreement"); and

(4) the Original Park Agreement provides that property may be added to the Multi-County Park upon the passage of approving ordinances enacted by the respective county councils; and

(5) Lancaster County and Chesterfield County desire to simplify the process of adding property to the Park by revising Section 5(B)(1) of the Original Park Agreement to provide that property may be added to the Park Agreement by ordinance of the county in which the subject property is located and by resolution of the non-host county; and

(6) Chesterfield County and Lancaster County both desire to add several properties located in their respective counties to the Multi-County Park; and

(7) to effectuate the changes sought by Chesterfield County and Lancaster County to the Original Park Agreement and the Multi-County Park, the two counties are authorizing and approving an Amended and Restated Master Multi-County Park Agreement that includes the desired changes.

(B) It is the purpose of this ordinance, among other things, to authorize and approve an Amended and Restated Master Multi-County Park Agreement.

Section 2. Approval of Amended and Restated Master Multi-County Park Agreement.

(A) The Council Chair and the Council Secretary are authorized, empowered and directed, in the name of and on behalf of Lancaster County, to execute, acknowledge, and deliver an Amended and Restated Master Multi-County Park Agreement between Chesterfield County, South Carolina and Lancaster County, South Carolina (the "Amended and Restated Master Agreement"). The Clerk to Council is authorized to attest the execution of the Amended and Restated Master Agreement by the County officials. The form of the Amended and Restated Master Agreement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the Amended and Restated Master Agreement are incorporated into this ordinance as if the Amended and Restated Master Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, Council approves the Amended and Restated Master Agreement and all of its terms, provisions and conditions. The Amended and Restated Master Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the Council Chair and Council Secretary determine, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the Amended and Restated Master Agreement.

(B) Prior to the execution of the Amended and Restated Master Agreement, as provided in Section 2(A) of this ordinance, the Council Chair and Council Secretary are authorized and directed to remove any property from the schedule of properties proposed to be included in the Multi-County Park if the property is inside the boundaries of a municipality and the municipality has not consented to the creation of the Multi-County Park as required by Section 4-1-170(C) of the Code of Laws of South Carolina 1976, as amended, unless the property was previously included in another multi-county park .

Section 3. Removal of parcel from prior park agreement.

Upon the later of the passage of this Ordinance or the passage of a counterpart ordinance by Chesterfield County authorizing and approving an Amended and Restated Master Agreement that includes the property owned by DC Custom Freight, d/b/a Fiber Fuels (Tax Map No. 37-58), such property will be removed from the prior multi-county park agreement between Chesterfield and Lancaster Counties dated August 13, 2012 (approved by Lancaster County Ordinance No. 1138 and Chesterfield County Ordinance No. 12-13-05).

Section 4. Distribution of Amended and Restated Master Agreement.

When Lancaster County and Chesterfield County have each passed an ordinance approving the Amended and Restated Master Agreement as provided in Section 2 of this ordinance, the County Administrator, in coordination with the County Administrator of Chesterfield County, shall cause to be distributed the Amended and Restated Master Agreement. A copy of the Amended and Restated Master Agreement, including Exhibit A (Lancaster County) and Exhibit B (Chesterfield County), shall be provided to the Clerk to Council, Assessor, Auditor and Treasurer of Lancaster County and Chesterfield County.

Section 5. Authority to Act.

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effectuate the purposes of this ordinance and the performance of all obligations of the County under and pursuant to this ordinance.

Section 6. Conflicting provisions; Continuation of Ordinance No. 2015-1230.

(A) To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions, policies, procedures and actions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

(B) Unless otherwise provided in this ordinance, all provisions of Ordinance No. 2013-1230, as amended, remain in place and apply with equal force and effect to the Amended and Restated Master Agreement.

Section 7. Severability.

If any section of this ordinance is, for any reason, determined to be void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section of this ordinance which is not itself void or invalid.

Section 8. Effective date.

This ordinance is effective upon third reading.

And it is so ordained, this 9th day of November, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

First Reading:	July 27, 2015	Passed 7-0
Second Reading:	October 26, 2015	Tentative
Public Hearing:	November 9, 2015	Tentative
Third Reading:	November 9, 2015	Tentative

Exhibit A to Ordinance No. 2015-1352

Amended and Restated Master Multi-County Park Agreement

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Amended and Restated
Master Multi-County Park Agreement
between
Chesterfield County, South Carolina
and
Lancaster County, South Carolina
Originally Dated as of December 9, 2013 and
Effective July 1, 2014

Amended and Restated
as of
November 9, 2015

**Amended and Restated
Master Multi-County Park Agreement**

between

Chesterfield County, South Carolina and Lancaster County, South Carolina

Originally Dated as of December 9, 2013 and Effective July 1, 2014

Amended and Restated as of November 9, 2015

This AMENDED AND RESTATED MASTER MULTI-COUNTY PARK AGREEMENT is made and entered into as of the 9th day of November, 2015, by and between CHESTERFIELD COUNTY, SOUTH CAROLINA ("Chesterfield County") and LANCASTER COUNTY, SOUTH CAROLINA ("Lancaster County") (collectively, Chesterfield County and Lancaster County are the "Parties"), each a body politic and corporate, a political subdivision of the State of South Carolina ("Amended and Restated Master Agreement").

In consideration of the mutual agreements, representations and benefits contained in this Master Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Chesterfield County and Lancaster County agree as follows:

1. Effective Date. This Amended and Restated Master Agreement is effective at 12:00 a.m. (midnight), November 9, 2015 (the "Effective Date").

2. Authorization. Article VIII, section 13(D) of the South Carolina Constitution and Sections 4-1-170, -172, and -175 of the Code of Laws of South Carolina 1976, as amended (the "MCP Law"), authorizes contiguous counties to jointly develop industrial and business parks within the geographical boundaries of one or more of the participating counties. Lancaster County authorized and approved this Amended and Restated Master Agreement by passage of Ordinance No. 2015-1352 and Chesterfield County authorized and approved this Amended and Restated Master Agreement by passage of Ordinance No. 14-15-20.

3. Purpose; Intent. (A) *General.* The purpose of this Amended and Restated Master Agreement is to (i) provide for the establishment of a multi-county park in accordance with the MCP Law consisting of multiple properties located in each county, (ii) encourage the investment of capital and the creation of jobs in Lancaster County and Chesterfield County, and (iii) to provide a simple process for the two counties to use the multi-county park mechanism as a tool to recruit new business and industry to locate in the respective counties and to encourage the expansion of existing business and industry.

(B) *Prior Agreement.* It is the intention of the Parties for this Amended and Restated Master Multi-County Park Agreement to replace and supersede for all purposes the Master Multi-County Park Agreement between Chesterfield County, South Carolina and Lancaster County, South Carolina dated December 9, 2013 and effective July 1, 2014.

4. Agreement to Develop Park. The Parties agree to jointly develop an industrial and business park in accordance with the MCP Law and the terms and conditions of this Amended and Restated Master Agreement (the “Park”).

5. The Park. (A) *Location.* The Park consists of property located in Lancaster County, as further identified in Exhibit A (Lancaster County) to this Amended and Restated Master Agreement, and property located in Chesterfield County, as further identified in Exhibit B (Chesterfield County), to this Amended and Restated Master Agreement. The Park may consist of non-contiguous properties within each county.

(B) *Addition and Removal of Property.*

(1) *County Action Required.* Property may be added to the Park by ordinance of the county in which the subject property is located and resolution of the non-host county. Property may be removed from the Park by ordinances of both counties.

(2) *Revised Exhibits.* If property is added to or removed from the Park, this Amended and Restated Master Agreement is deemed amended and a revised Exhibit A (Lancaster County) or Exhibit B (Chesterfield County), as applicable, shall be prepared by the county in which the added or removed property is located. The revised exhibit must contain a description or other identification of the properties included in the Park, after the addition or removal. A copy of the revised exhibit shall be provided to the Administrator, Clerk to Council, Assessor, Auditor and Treasurer of Lancaster County and Chesterfield County.

(3) *Public Hearings and Notice.* Prior to the adoption by either county of an ordinance authorizing the removal of property from the Park, the county council in the county in which the property to be removed is located, shall hold a public hearing. The county that will conduct the public hearing must give notice of the public hearing by publication in a newspaper of general circulation in the county in which the public hearing will be held at least once and not less than fifteen (15) days prior to the public hearing. Notice of the public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to the public hearing upon the owner of the real property and, if applicable, the lessee of any real property which would be removed from the Park.

6. Fee in Lieu of Taxes. Pursuant to article VIII, section 13(D), of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Amended and Restated Master Agreement and the MCP Law an amount equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due and payable but for the location of the property within the Park (“Fee in Lieu of Taxes” or “FILOT”).

7. Allocation of Expenses. Lancaster County and Chesterfield County shall bear the expenses for the development, operation, maintenance and promotion of the Park and the cost of providing public services, in the following proportions:

If property is in the Lancaster County portion of the Park:

(1)	Lancaster County	100%
(2)	Chesterfield County	0%

If property is in the Chesterfield County portion of the Park:

(1)	Lancaster County	0%
(2)	Chesterfield County	100%

8. Allocation of Revenues. Lancaster County and Chesterfield County shall receive an allocation of revenue generated by the Park through payment of Fee in Lieu of Taxes (net of any special source revenue bond payments or special source revenue credits) in the following proportions:

If property is in the Lancaster County portion of the Park:

(1)	Lancaster County	99%
(2)	Chesterfield County	1%

If property is in the Chesterfield County portion of the Park:

(1)	Lancaster County	1%
(2)	Chesterfield County	99%

9. Revenue Allocation Within Each County. (A) *Host County.* Revenues generated by the Park through the payment of Fee in Lieu of Taxes shall be distributed to Lancaster County and to Chesterfield County, as applicable, according to the proportions established by Paragraph 8 of this Amended and Restated Master Agreement. With respect to revenues allocable to Lancaster County or Chesterfield County by way of FILOT generated within the respective county (the "Host County"), such revenue shall be distributed within the Host County in the manner provided by ordinance of the council of the Host County; provided, that (i) all taxing districts which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such portion, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of the taxing entity shall allocate the revenues received between operations and debt service of the taxing entity. Each Host County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the council of the Host County.

(B) *Non-Host County.* Revenues allocable to Lancaster County by way of FILOT generated within Chesterfield County shall be distributed solely to Lancaster County. Revenues allocated to Chesterfield County by way of FILOT generated within Lancaster County shall be distributed solely to Chesterfield County.

10. Fees In Lieu of Taxes Pursuant to Title 4 and Title 12 Code of Laws of South Carolina. The Parties agree that the entry by Lancaster County into any one or more fee in lieu of tax agreements pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina 1976, as amended (“Negotiated Fee-in-Lieu of Tax Agreements”), with respect to property located within the Lancaster County portion of the Park and the terms of those agreements shall be at the sole discretion of Lancaster County. The Parties further agree that entry by Chesterfield County into any one or more Negotiated Fee-in-Lieu of Tax Agreements with respect to property located within the Chesterfield County portion of the Park and the terms of those agreements shall be at the sole discretion of Chesterfield County.

11. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to Lancaster County and Chesterfield County and to each of the taxing entities within the participating counties shall be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Paragraphs 8 and 9 of this Amended and Restated Master Agreement.

12. Applicable Regulations. Any applicable ordinances and regulations of Chesterfield County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Chesterfield County unless the properties are within the boundaries of a municipality in which case the municipality’s applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Lancaster County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Lancaster County unless the properties are within the boundaries of a municipality in which case the municipality’s applicable ordinances and regulations shall apply.

13. Law Enforcement Jurisdiction. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Chesterfield County is vested with the Sheriff’s Department of Chesterfield County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Lancaster County is vested with the Sheriff’s Department of Lancaster County. If any of the Park properties located in either Chesterfield County or Lancaster County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality.

14. Severability. If any provision or any part of a provision of this Amended and Restated Master Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Amended and Restated Master Agreement.

15. Amendments. The provisions of this Amended and Restated Master Agreement may be modified or amended only in a writing signed by the Parties.

16. Headings and Catch Lines. The headings of the paragraphs and subparagraphs of this Amended and Restated Master Agreement are inserted for convenience only and do not constitute a part of this Amended and Restated Master Agreement.

17. Governing Law. This Amended and Restated Master Agreement, and all documents executed in connection with it, shall be construed in accordance with and governed by the laws of the State of South Carolina.

18. Counterparts. This Amended and Restated Master Agreement may be executed in any number of counterparts, and all of the counterparts taken together constitute one and the same instrument.

19. Binding Agreement. This Amended and Restated Master Agreement is binding upon and shall inure to the benefit of the respective Parties.

20. Merger. This Amended and Restated Master Agreement, and all documents executed in connection with it, express the entire understanding and all agreements of the Parties with each other, and neither Lancaster County nor Chesterfield County has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Amended and Restated Master Agreement.

21. Waiver. Either party may waive compliance by the other party with any term or condition of this Amended and Restated Master Agreement only in a writing signed by the waiving party. The failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall not operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

22. Termination. (A) *Duration and Renewal.* This Amended and Restated Master Agreement commences on the Effective Date and ends on December 31, 2063, *provided*, that this Amended and Restated Master Agreement is automatically extended for a renewal term of ten (10) years, and for not more than a total of five (5) ten (10) year renewal terms, unless either Lancaster County or Chesterfield County gives written notice to the other not less than one hundred eighty (180) days prior to the end of the applicable term that the party objects to the extension of this Amended and Restated Master Agreement. If either county gives written notice to the other of its objection to the extension of this Amended and Restated Master Agreement, then the county in which the real property is located shall give notice of the termination of this Amended and Restated Master Agreement to the owner of the real property and, if applicable, the lessee of any real property, located within the Park in that county not less than ninety (90) days prior to the end of the applicable term and the notice shall be provided in the manner set forth in subparagraph (B)(3) of Paragraph 5 of this Amended and Restated Master Agreement.

(B) *Mutual Termination.* Notwithstanding the provisions of subparagraph (A) of this Paragraph 22, the Parties may mutually agree to terminate this Amended and Restated

Master Agreement at any time upon passage of an ordinance to that effect by each county and after conducting a public hearing and giving notice as set forth in subparagraph (B)(3) of Paragraph 5 of this Amended and Restated Master Agreement.

WITNESS our hands and seals as of the date first above written.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy
Chair, County Council

Steve Harper
Secretary, County Council

(Seal)

ATTEST:

Debbie C. Hardin
Clerk to Council

CHESTERFIELD COUNTY SIGNATURES FOLLOW ON NEXT PAGE.

CHESTERFIELD COUNTY, SOUTH CAROLINA

(SEAL)

J. Matthew Rivers
Chair, County Council

ATTEST:

Betty M. Boswell
Clerk to Council

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

EXHIBIT A (Lancaster County)

Lancaster County Property

A. Properties included pursuant to Lancaster County Ordinance No. 2013-1230, enacted on December 9, 2013 and effective July 1, 2014:

U.S. 521 –Northfield Drive-Business Park

<u>Tax Map No.</u>	<u>Owner</u>
0010-00-050.00	LIP Lot 14 LLC
0010-00-050.03	Little Buildings LLC
0010-00-050.05	William O. Powers
0010-00-050.06	South Atlantic Environmental
0010-00-050.08	Lancaster Industrial Park LLC
0010-00-050.09	Lancaster Industrial Park LLC
0010-00-050.10	Lancaster Industrial Park LLC
0010-00-050.11	John F. Shepherd
0010-00-050.12	C.W. Bennett
0010-00-050.13	Lancaster Industrial Park LLC
0010-00-050.14	G&G 9106 Northfield Drive LLC
0010-00-050.15	G&G 9106 Northfield Drive LLC
0010-00-050.16	G&G 9106 Northfield Drive LLC
0010-00-050.17	Thomas Concrete of Carolina
0010-00-050.18	Cemex Construction Materials
0010-00-050.19	Concrete Supply Co.

Lancaster County Air Rail Park

<u>Tax Map No.</u>	<u>Owner</u>
0066-00-039.00	Fancy Pocket USA Holdings, Inc.
0066-00-040.00	Lancaster County
0083-00-007.01	Lancaster County

S.C. 9 – U.S. 521 By-Pass Business Park

<u>Tax Map No.</u>	<u>Owner</u>
0061-00-104.02	Turnils Inc.
0061-00-104.04	Metso/Jim Loen 2008 LLC
0068-00-018.01	Nutramax
0068-00-018.06	Nutramax
0068-00-018.07	Nutramax

0068-00-018.03

Risc LLC (Cooley Bldg)

S.C. 160 - McMillian Park

Tax Map No.

Owner

0007-00-008.00

DVG Real Property LLC

0007-00-008.03

Allegiance (Cardinal Health)

0007-00-008.05

Kennametal

B. Properties included pursuant to Lancaster County Ordinance No. 2014-1313, enacted on November 10, 2014 and effective November 10, 2014:

1320 Camp Creek Road

Tax Map No.

Owner

0068F-0B-007.00

RAL Industries LLC

C. Properties included pursuant to Lancaster County Ordinance No. 2015-1324, enacted on February 9, 2015 and effective February 9, 2015:

1531 Camp Creek Road

Tax Map No.

Owner

0068-00-035.00

Silgan Containers Manufacturing
Corporation

D. Properties included pursuant to Lancaster County Ordinance No. 2015-1352, enacted on November 9, 2015 and effective November 9, 2015:

1759 Flat Creek Road

Tax Map No.

Owner

0080-00-001.00
(Nutramax)

Hosiery Corporation of America

3888 Chester Highway (S.C. 9)

Tax Map No.

Owner

0066-00-033.00

Lancaster County

--XX--

EXHIBIT B (Chesterfield County)
Chesterfield County Property

Properties included pursuant to Chesterfield County Ordinance No. 14-15-20, enacted on November 4, 2015 and effective _____, 2015:

755 State Road S-13-680

Tax Map No.

Owner

37-58

DC Custom Freight, LLC
d/b/a Fiber Fuels

U.S. 601 Near State Road 13-580 (Philadelphia Church Road)

Tax Map No.

Owner

18-201

TS4, LLC/Titan Stainless of North
Carolina, Inc.

506 Usher

Tax Map No.

Owner

31-8-1-14 and 31-8-01-11 (p/o)

TS4, LLC/Titan Stainless of North
Carolina, Inc.

Rollins Road

Tax Map No.

Owner

32-97

Conbraco Industries, Inc.

Intersection of S13-513 and S.C. Highway 151 Business

Tax Map No.

Owner

32-7

Conbraco Industries, Inc.

3.14 acres, Hwy. 1

<u>Tax Map No.</u>	<u>Owner</u>
259-11-4-2	Carolina Cannery, Inc.

Andrew Bloomfield Home Place

<u>Tax Map No.</u>	<u>Owner</u>
259-11-4-1	Carolina Cannery, Inc.

14.94 acres, U.S. Highway 52

<u>Tax Map No.</u>	<u>Owner</u>
259-11-4-3	Carolina Cannery, Inc.

S. C. Highway 9

<u>Tax Map No.</u>	<u>Owner</u>
258-14-4-1	Highland Industries, Inc.

North of Evans Row Road

<u>Tax Map No.</u>	<u>Owner</u>
259-12-4-7	Schaeffler Group

S.C. Highway S-13-388 and Oak Street

<u>Tax Map No.</u>	<u>Owner</u>
259-1	Schaeffler Group

22.84 Acres West of Town of Cheraw

<u>Tax Map No.</u>	<u>Owner</u>
244-10	Schaeffler Group

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Agenda Item Summary

Ordinance # 2015-1378

Contact Person / Sponsor: John Weaver

Department: County Attorney

Date Requested to be on Agenda: October 26, 2015

Committee: I&R (Favorable Recommendation)



Issue for Consideration: Whether or not it is appropriate to consider passage of this Ordinance and the accompanying Development that is associated with PDD-21, Ansley Park.

Points to Consider: This is a stand alone Development Agreement relating to a 2005 rezoning of a parcel known as PDD-21, Ansley Park, Ordinance 650. While the original rezoning encompassed 190+ acres, this portion of PDD-21 encompasses only a portion of that acreage, approximately 147 acres and all will be residential. The original rezoning contemplated up to 550 residential dwelling units, but the present developer has lessened the density on its 147 acres and has an expectation of a maximum of not more than 320 houses. Six Mile Creek runs through the original 190 acres and by an earlier decision of the Planning Commission, the proposed bridge crossing the creek was removed from the earlier master plan because of environmental issues. The developer has presented to the Planning Staff a new master plan that will be considered by the Planning Commission with a recommendation being made by that body prior to Council's final consideration and passage of this ordinance, as permitted by SC statutory law.

Funding and Liability Factors: The developer by agreement following negotiations with the County Attorney has pledged \$1,000 per house for Public Safety needs and an additional \$500 per house for the Lancaster County School District. The developer is to be commended for its willingness to support future growth in Lancaster County inasmuch as the prior contribution in 2005 was only \$600 per house.

Council Options: Approval or rejection (denial) of the Ordinance.

Recommendation: Approval.

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2015-1378

COUNTY OF LANCASTER

)

AN ORDINANCE

TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN FORESTAR (USA) REAL ESTATE GROUP INC. AND THE COUNTY OF LANCASTER RELATING TO A PORTION OF THE ANSLEY PARK (PDD-21) DEVELOPMENT; TO AUTHORIZE CERTAIN COUNTY OFFICIALS TO EXECUTE AND DELIVER THE DEVELOPMENT AGREEMENT; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations.

The Council finds and determines that:

(a) Lancaster County is authorized by the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended (the "Act"), and by the Development Agreement Ordinance for Lancaster County, South Carolina, Ordinance No. 663 (the "Ordinance"), to enter into development agreements with developers;

(b) Forestar (USA) Real Estate Group Inc. seeks to enter into a development agreement with Lancaster County relating to a portion of the Ansley Park (PDD-21) development; and

(c) the Act and Ordinance require a development agreement to be approved by the county governing body by the adoption of an ordinance.

Section 2. Approval of Agreement; Authorization to Act.

A. The Council Chair and Council Secretary are each authorized, empowered and directed to execute, acknowledge and deliver a Development Agreement between Forestar (USA) Real Estate Group Inc. and the County of Lancaster relating to a portion of the Ansley Park (PDD-21) development (the "Development Agreement") in the name and on behalf of the County of Lancaster. The form of the Development Agreement is attached hereto as Exhibit A and all terms, provisions and conditions of the Development Agreement are incorporated herein by reference as if the Development Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, the Lancaster County Council

approves the Development Agreement and all of its terms, provisions and conditions. The Development Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such minor changes therein as shall be approved by the officials of Lancaster County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Development Agreement attached to this ordinance.

B. The Council Chair and Council Secretary are each authorized to execute and deliver any related instruments, documents, certificates and other papers as are necessary to effect the delivery of the Development Agreement. The Council and its duly elected or appointed officers and any other County official are authorized to take any and all action as may be necessary to effectuate the purposes of this ordinance.

Section 3. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section 4. Controlling Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, orders and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 5. Effective Date.

This ordinance is effective upon third reading.

And it is so ordained, this ____ day of _____, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

Attest:

Debbie C. Hardin, Clerk to Council

Planning Commission Public Hearing:	November 17, 2015	Tentative
First Reading:	October 26, 2015	Tentative
Second Reading:		Tentative
Council Public Hearing:	November 23, 2015	Tentative
Third Reading:		

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit A to Ordinance No. 2015-1378

**Development Agreement
Between
Forestar (USA) Real Estate Group Inc. and the County of Lancaster
A Portion of the Ansley Park (PDD-21) Development**

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

------(Space above this line for recording use)-----

STATE OF SOUTH CAROLINA)	DEVELOPMENT AGREEMENT
)	PORTION OF
COUNTY OF LANCASTER)	ANSLEY PARK DEVELOPMENT

This **DEVELOPMENT AGREEMENT** (the "Agreement") is made and entered into as of the ____ day of _____, 2015 ("Agreement Date"), by and between **FORESTAR (USA) REAL ESTATE GROUP INC.** ("Developer"), a _____ corporation, and the **COUNTY OF LANCASTER** (the "County"), a body politic and corporate, a political subdivision of the State of South Carolina.

RECITALS

WHEREAS, Developer has obtained the right to acquire certain real property consisting of approximately 147 acres, more or less, located in the County and known as a portion of the Ansley Park development.

WHEREAS, the Property is currently zoned planned development district pursuant to Ordinance No. 650, PDD-21, Ansley Park Planned Development District-21 approved January 31, 2005 and amended by Ordinance No. 796 dated January 28, 2007.

WHEREAS, Developer and County have determined that it is in the best interests of the County and Developer to enter into this Agreement to set forth the terms and conditions of the development in order to more fully protect the Developer's development rights, thereby providing certainty and predictability to the Developer of those rights and providing certainty and predictability to the County on the scope and terms of the development.

WHEREAS, the Developer desires to obtain from the County in connection with the development, and the County is willing to provide, assurances: (1) that the property will be appropriately zoned for the duration of this Agreement; (2) that upon receipt of its development and construction permits it may proceed with the planned development and construction; and (3) that the development rights will be vested for the duration of this Agreement.

WHEREAS, in connection with the proposed development, Developer and County recognize that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development within the County, thus providing benefits to the citizens of the County and providing public benefits through, among other things, the donation of funds or financing of those public facilities and services described and identified in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this Agreement, the receipt and sufficiency of such consideration being acknowledged by the parties, and pursuant to the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended (the “Act”) and the Development Agreement Ordinance for Lancaster County, South Carolina (“Ordinance No. 663”), the parties to this Agreement, intending to be legally bound to a development agreement in accordance with the Act and Ordinance No. 663, agree as follows:

ARTICLE I

GENERAL

Section 1.01. Incorporation. The above recitals are incorporated in this Agreement as if the recitals were set out in this Agreement in its entirety. The findings contained in the Act are incorporated into this Agreement as if it were set out in this Agreement in its entirety.

Section 1.02. Definitions. (A) As used in this Agreement:

(1) “Act” means the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended.

(2) “Agreement” means this Development Agreement.

(2A) “Agreement Date” means the date of this Agreement as set forth above.

(3) “County” means the County of Lancaster, a body politic and corporate, a political subdivision of the State of South Carolina.

(4) “County Council” means the governing body of the County.

(5) “Developer” means Forestar (USA) Real Estate Group Inc., a _____ corporation, and its successors in title to the Property who undertake Development of the Property or who are transferred Development Rights.

(6) “Development Rights” means the right of the Developer to develop all or part of the Property in accordance with this Agreement.

(7) Reserved.

(8) “Laws and Land Development Regulations” means the County’s applicable rules and regulations governing development of real property as set forth on Exhibit E hereto.

(9) “Ordinance No. 663” means Ordinance No. 663 of the County which is cited as the Development Agreement Ordinance for Lancaster County, South Carolina.

(10) “Ordinance No. 650” means Ordinance No. 650, PDD-21, Ansley Park Planned Development District-21 approved January 31, 2005, as amended by Ordinance No. 796 dated January 29, 2007, zoning the Property planned development district (PDD-21).

(11) “Ordinance No. 2015-____” means Ordinance No. 2015-____ of the County approving this Agreement.

(12) “Parties” means County and Developer.

(12A) “PDD-21” means Ordinance No. 650.

(13) “Property” means the land, and any improvements thereon, described in Section 1.04.

(14) “Forestar Related Entity” means (i) an entity that is owned or controlled by Developer, or is owned or controlled by any entity that owns at least a fifty percent (50%) membership interest in Developer; and (ii) any entity that is the successor in interest to Developer via merger or operation of law.

(15) “UDO” means Ordinance No. 309, as amended, as of January 31, 2005, and which is cited as the Unified Development Ordinance of Lancaster County. The UDO includes Ordinance No. 328, as amended, as of January 31, 2005, and which is cited as the Land Development Regulations of Lancaster County.

(B) Unless the context clearly indicates otherwise, terms not otherwise defined in this Agreement have the meanings set forth in the Act and Ordinance No. 663.

Section 1.03. Parties. The parties to this Agreement are County and Developer.

Section 1.04. Property. This Agreement applies to the land described in Exhibit A, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety. The Property is generally known as a portion of the Ansley Park development.

Section 1.05. Zoning. The Property is zoned planned development district (PDD-21) pursuant to Ordinance No. 650.

Section 1.06. Permitted Uses. (A) PDD-21 and the UDO provide for the development uses on the Property, including population densities, building intensities and height.

(B) All lots for the Development must meet all of the standards contained in this Agreement and if no specific standard is contained in this Agreement, then the standards contained in PDD-21 and the UDO apply.

Section 1.07. Development Schedule. (A) The estimated development schedule for the Property is set forth on Exhibit C, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

(B) County and Developer acknowledge that the development schedule is an estimate. The failure of the Developer to meet a commencement or completion date does not, in and of itself, constitute a material breach of this Agreement, but must be judged based on the totality of the circumstances. The development schedule is a planning and forecasting tool only. County and Developer acknowledge that actual development is likely to take place at a different pace than set forth in the development schedule because of future market forces.

(C) County agrees that if Developer requests an adjustment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified if

the Developer is able to demonstrate and establish that there is good cause to modify those dates. “Good cause” includes, but is not limited to, changes in market conditions.

(D) Periodic adjustments to the development schedule do not require a formal amendment to this Agreement and are not considered a major modification. To adjust the development schedule, the Developer shall submit a proposed adjustment to the Clerk to Council who shall forward copies of the proposed adjustment to each member of County Council. The proposed adjustment must be accompanied by an explanation and justification. The proposed adjustment is effective sixty (60) days from receipt by the Clerk to Council unless the County Council has disapproved the proposed adjustment by passage of a resolution to that effect within the sixty (60) day period.

Section 1.08. Relationship of Parties. This Agreement creates a contractual relationship among the Parties. This Agreement is not intended to create, and does not create, the relationship of partnership, joint venture, or any other relationship wherein any one of the parties may be held responsible for the acts of any other party. This Agreement is not intended to create, and does not create, a relationship whereby any one of the parties may be rendered liable in any manner for the debts or obligations of any other party, to any person or entity whatsoever, whether the debt or obligation arises under this Agreement or outside of this Agreement.

Section 1.09. Benefits and Burdens. (A) The Parties agree that the burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interests to the Parties to this Agreement.

(B) Except for the owners and lessees of completed residences on individual lots who are the end users and not developers thereof and the owners and lessees of individual lots, who are not developers and who intend to build a residence on the lot for the owner or lessee to occupy, any purchaser or other successor in title is responsible for performance of Developer’s obligations pursuant to this Agreement as to the portion of the Property so transferred. Developer must give notice to the County of the transfer of property to a developer in the manner prescribed in Section 3.05.

(C) Developer acknowledges and agrees that it (i) is responsible for the development of the Property when Developer acquires title to or development rights for the Property, and (ii) will develop the Property in accordance with the terms and conditions of this Agreement. It is the express intention of the Parties that the obligations of this Agreement are intended to run with the Property. If the Property is sold, either in whole or in part, and the Developer’s obligations are transferred to a purchaser or successor in title to the Property as provided herein and in Section 3.05 below, Developer shall be relieved of any further liability for the performance of Developer’s obligations as provided in this Agreement as it relates to the portion of the Property sold if the Developer is then current with its obligations pursuant to this Agreement.

Section 1.10. Term. The term of this Agreement commences on the Agreement Date and terminates five (5) years thereafter.

Section 1.11. Required Information. Ordinance No. 663 requires a development agreement to include certain information. Exhibit D contains the required information or

identifies where the information may be found in this Agreement. Exhibit D is incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties of County. (A) The County represents that it finds the development permitted by this Agreement is consistent with the County's comprehensive plan and land development regulations.

(B) The County represents that it has approved this Agreement by adoption of Ordinance No. 2015-_____ in accordance with the procedural requirements of the Act, Ordinance No. 663 and any other applicable state law.

(C) The County represents that prior to the final reading of Ordinance No. 2015-_____ that at least two public hearings were held after publication of the required notice and the publication of a notice of intent to consider a proposed development agreement.

Section 2.02. Representations and Warranties of Developer. (A) Developer represents that the number of acres of highland contained in the Property is twenty-five (25) or more, the same being approximately one hundred and forty seven (147) or more acres. [Need to confirm]

(B) Developer represents that, as of the Agreement Date, it has contractual rights to acquire the Property and that, following acquisition, Developer shall be the only legal and equitable owner of the Property.

(C) Developer represents and warrants that the execution, delivery and performance by the individual or entity signing this Agreement on behalf of the Developer has been duly authorized and approved by all requisite action on the part of Developer.

ARTICLE III

DEVELOPMENT RIGHTS

Section 3.01. Vested Right to Develop. (A) County agrees that the Developer, upon receipt of its development permits as identified in Section 3.04, may proceed to develop the Property according to the terms and conditions of this Agreement. The right of Developer to develop the Property as set forth in this Agreement is deemed vested with Developer for the term of this Agreement when the Developer has complied with all of the requirements of Section 5.19.

(B) Except as otherwise provided in this Agreement, County agrees that the specific Laws and Land Development Regulations in force as of the Agreement Date, as set forth in Exhibit E to this Agreement, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety, shall govern all aspects of the development of the Property, according to the terms and standards as stated in this Agreement, for the term of this Agreement.

(C) The Developer has a vested right to proceed with the development of the Property in accordance with the zoning classification set forth in Ordinance No. 650, the UDO and the terms of this Agreement when the Developer has complied with all of the requirements of Section 5.19.

(D) Except as may be otherwise provided for in this Agreement, the Act or Ordinance No. 663, no future changes or amendments to the Laws and Land Development Regulations shall apply to the Property, and no other local land development legislative enactments shall apply to the development, the Property, or this Agreement which have a direct or indirect adverse effect on the ability of the Developer to develop the Property in accordance with the Laws and Land Development Regulations.

(E) (1) To the extent that this Agreement may contain zoning and development standards which conflict with existing zoning and development standards, including zoning and development standards contained in Ordinance No. 650 and the UDO, the standards contained in this Agreement supersede all other standards and this Agreement is deemed controlling.

(2) To the extent that Ordinance No. 650 may contain zoning and development standards which conflict with zoning and development standards contained in the UDO, the standards contained in Ordinance No. 650 supersede all other standards and Ordinance No. 650 is deemed controlling except as provided in subsection (E)(1).

(F) For purposes of Subsection (D) of this Section 3.01 and Section 3.03(A)(3), the Laws and Land Development Regulations are anticipated to be amended subsequent to the Agreement Date to provide for requirements and standards applicable to storm water runoff conveyance systems and drainage improvements. The anticipated amendments are expected to include, but not be limited to, minimum standards for the design and sizing of storm drainage piping systems and access easements. These amendments to the Laws and Land Development Regulations will apply to the Property.

Section 3.02. Effect on Vested Rights Act and County Ordinance No. 673. The Parties agree that vested rights conferred upon Developer in this Agreement are not affected by the provisions of the Vested Rights Act, codified as Sections 6-29-1510 to -1560, Code of Laws of South Carolina 1976, as amended, or the provisions of Ordinance No. 673, the County's ordinance relating to the Vested Rights Act.

Section 3.03. Applicability of Subsequently Adopted Laws and Land Development Regulations. (A) County may apply laws adopted after the execution of this Agreement to the development of the Property only if the County Council holds a public hearing and determines:

(1) the laws are not in conflict with the laws governing this Agreement and do not prevent the development set forth in this Agreement and "laws" which prevent development include, but are not limited to, a moratorium, or any other similar restriction that curtails the rate at which development can occur on the Property;

(2) the laws are essential to the public health, safety, or welfare and the laws expressly state that they apply to the development that is subject to this Agreement;

(3) the laws are specifically anticipated and provided for in this Agreement;

(4) that substantial changes have occurred in pertinent conditions existing at the time this Agreement was approved which changes, if not addressed by County, would pose a serious threat to the public health, safety, or welfare; or

(5) that this Agreement was based on substantially and materially inaccurate information supplied by the Developer that materially affected the terms and provisions of this Agreement.

(B) Developer agrees to comply with any county-wide building, housing, electrical, plumbing, fire and gas codes required to be enforced pursuant to the laws of South Carolina after the Agreement Date and in force at the time plans for buildings are submitted to the County for review. Nothing in this Agreement is intended to supersede or contravene the requirements of any building, housing, electrical, plumbing, fire or gas code adopted by County Council.

Section 3.04. Development Permits. (A) Developer agrees to obtain all local development permits for the development of the property. Local development permits, approvals and processes, some of which may have been obtained or complied with as of the Agreement Date, include, but are not limited to:

- (1) Development Review Committee process;
- (2) Preliminary plan approval;
- (3) Final plat approval;
- (4) Zoning permits;
- (5) Building permits; and
- (6) Sign permits.

(B) The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

Section 3.05. Transfer of Development Rights. Developer may, at its sole discretion, transfer its Development Rights to other developers. The transferring Developer must give notice to the County of the transfer of any Development Rights. The notice to the County must include the identity and address of the transferring Developer, the identity and address of the acquiring Developer, the acquiring Developer's contact person, the location and number of acres of the Property associated with the transfer and the number of residential units subject to the transfer. If the acquiring Developer is an entity, then, at the request of the County, the acquiring Developer shall provide the County the opportunity to view a listing of the names and addresses of the entity's officers and owners. Any Developer acquiring Development Rights is required to file with the County an acknowledgment of this Agreement and the transfer of Development Rights is effective only when the County receives a commitment from the acquiring Developer to be bound by it. This provision does not apply to the purchaser or other successor in title to the Developer who is the owner or lessee of a completed residence and is the end user and not the developer thereof or who is the owner or lessee of an individual lot, who is not a developer and who intends to build a residence on the lot for the owner or lessee to occupy.

Section 3.06. Lot Widths; Bridges. County and Developer acknowledge, agree and ratify two minor changes to the Ansley Park Master Plan made pursuant to and in accordance with the provisions of Ordinance No. 650: (1) two lots widths; and (2) the removal of a bridge crossing Six Mile Creek.

ARTICLE IV

DEDICATIONS AND FEES AND RELATED AGREEMENTS

Section 4.01. Purpose of Article. The Parties understand and agree that Development of the Property imposes certain burdens and costs on the County, including those for certain services and infrastructure improvements. Eventually, *ad valorem* taxes collected from the property may meet or exceed the burdens and costs placed upon the County, but certain initial costs and capital expenditures are now required that are not to be funded by any increase in taxes paid by existing residents of the County. The purpose of this article is to identify the matters agreed upon to be provided by the Developer to mitigate such burdens and costs.

Section 4.01A. Funds for Public Safety. Developer agrees to pay County THREE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$320,000.00) upon the earlier of either _____, 201_, or the closing on the sale of any portion of the Ansley Park development by the Developer to an individual or entity other than a Forestar Related Entity (the “Public Safety Payment”). Upon receipt of the Public Safety Payment, the monies must be accounted for separate and distinct from other monies of the County. The Public Safety Payment must be used for non-recurring purposes for law enforcement, fire and emergency medical service in the panhandle area of the County. The determination of the specific uses for the Public Safety Payment is at the discretion of the County Council. As used in this section, “Developer” means Forestar (USA) Real Estate Group Inc., a _____ corporation, and does not include its successors or assigns but does include a Forestar Related Entity that holds title to the Property.

Section 4.01B. School Payments. Developer agrees to pay to the County for the benefit of the Lancaster County School District ONE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$160,000.00) upon the earlier of either _____, 201_ or the closing on the sale of any portion of the Ansley Park development to an individual or entity other than a Forestar Related Entity (the “School Payment”). Developer acknowledges and agrees that County is responsible only for the remittance of the School Payment to the Lancaster County School District and that the County has no other obligation or responsibility for the School Payment. As used in this section, “Developer” means Forestar (USA) Real Estate Group Inc., a _____ corporation, and does not include its successors or assigns but does include a Forestar Related Entity that holds title to the Property.

Section 4.02. Payment of Costs. Upon submission of appropriate documentation of the expenditure, Developer agrees to reimburse the County, not later than December 31, 2015, for the County’s reasonable unreimbursed actual costs related to this Agreement. The foregoing cost reimbursement is capped at ten thousand dollars (\$10,000.00) and is limited to County payments to third-party vendors and service providers that have not been otherwise reimbursed from the fee paid by Developer pursuant to Section 10 of Ordinance No. 663.

Section 4.03. Other Charges or Fees. (A) Nothing in this Agreement shall be construed as relieving Developer from the payment of any fees or charges in effect at the time of collection as may be assessed by entities other than the County.

(B) Developer is subject to the payment of any and all present or future fees enacted by the County that are of County-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections or similar type processing costs.

Section 4.04. Infrastructure and Services. The Parties recognize that the majority of the direct costs associated with the Development of the Property will be borne by Developer, and many necessary infrastructure improvements and services will be provided by Developer or other governmental or quasi-governmental entities, and not by the County. For clarification, the Parties make specific note of and acknowledge the following:

(A) **Roads.** (1)(a) Developer is responsible for the construction and costs of all roads, whether for public or private use, within the Property including but not limited to any necessary entrance and intersection improvements as required by the South Carolina Department of Transportation related to the development of the Property. All roads must be constructed in accordance with the County's road standards. The road improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(b) Developer shall cause to be prepared a traffic impact analysis conducted and sealed by a licensed South Carolina professional engineer. Any road improvements, which are determined to be necessary, based on the results of the traffic impact analysis, shall be incorporated into the final site plan prior to County approval and the Developer is responsible for all costs of the road improvements. The traffic impact analysis shall be reviewed by the County and in conjunction with the South Carolina Department of Transportation. If a County-level traffic planner is not available to review the traffic impact analysis at the time of submittal, the County may choose to hire a third-party consultant to assist in this review. The cost of the traffic impact analysis, including any additional reviews requested by the County, shall be paid by the Developer. Improvements set forth in the traffic impact analysis may be installed based on a phasing study prepared by a licensed South Carolina professional engineer at the expense of Developer. The installation of new traffic signals or improvements to existing traffic signals shall be based on warrant studies conducted by a licensed South Carolina professional engineer at established specific times and at the expense of Developer.

(c) If a signalized intersection is required by the traffic impact analysis, or additional poles are required at an existing signalized intersection, a mast-arm traffic signal shall be installed. At a minimum, the standard metal mast-arm poles used by Duke Energy Corporation shall be installed. Complete cost of the installation of the mast-arm traffic signal shall be paid by Developer. Developer shall furnish a financial guarantee, acceptable to the County in its discretion, to cover future repairs and replacement of the mast-arm traffic signal. Developer may transfer its obligation for future repairs and replacement for the mast-arm traffic signal to a homeowners' or property owners' association, or similar organization.

(2) Developer is responsible for all construction and maintenance, and the costs thereof, associated with the roads within the Property. Developer may transfer the ownership of the roads and its obligations for the roads to a homeowners' or property owners' association, or similar organization.

(3) Developer agrees to maintain the landscaping at the entrance to the Property and obtain any necessary easements therefor from the South Carolina Department of Transportation.

Developer's obligation to maintain the landscaping is limited to mowing and planting of grass, trimming and planting of shrubs, trees and other vegetation, and maintenance and operation of any associated irrigation system. County agrees to cooperate with Developer in obtaining an easement or other related approvals. Developer may transfer its maintenance obligation to a homeowners' or property owners' association, or similar organization.

(4) County is not responsible for any construction, maintenance, or costs associated with the roads within the Property. Developer acknowledges that County will not accept the roads within the Property into the County road system for any purpose, including, but not limited to, maintenance. Developer agrees to provide County prior to final plat approval documentation that a mechanism, such as a property owners' association, is in place for the perpetual maintenance of all roads with the Property. Developer acknowledges and agrees that the provisions of Section 26-27(B)(3)(a) and (b) of the Lancaster County Code, as amended by Ordinance No. 2014-1299, apply to the roads within the Property.

(B) Potable Water. Potable water will be supplied to the Property by the Lancaster County Water and Sewer District. Developer will construct, or cause to be constructed, all necessary water service infrastructure within the Property and the water service infrastructure will be maintained by the provider. County is not responsible for any construction, treatment, maintenance, or costs associated with water service or water service infrastructure to or within the Property. The water service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer acknowledges that County has no authority or responsibility for providing potable water services in the County and that the Lancaster County Water and Sewer District is a governmental entity separate and distinct from the County.

(C) Sewage Treatment and Disposal. Sewage treatment and disposal will be provided by the Lancaster County Water and Sewer District. Developer will construct, or cause to be constructed, all necessary sewer service infrastructure within the Property and the sewer service infrastructure will be maintained by the provider. County is not responsible for any construction, treatment, maintenance, or costs associated with sewer service or sewer service infrastructure. Sewer service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer acknowledges that County has no authority or responsibility for providing sewage treatment and disposal services in the County and that the Lancaster County Water and Sewer District is a governmental entity separate and distinct from the County.

(D) Storm Water Management. Developer will construct or cause to be constructed all storm water runoff conveyance systems and drainage improvements within the Property required by the development of the Property. All inlets, piping within a system, associated swales or other conveyance system shall be designed for a minimum twenty-five (25) year storm event. Individual culvert crossing shall be designed for a minimum twenty-five (25) year storm event. Developer agrees to construct or cause to be constructed permanent water quantity and water quality systems and improvements in accordance with best management practices. The applicable requirements and standards shall be the more stringent of either the requirements and standards contained in the Laws and Land Development Regulations as may be modified pursuant to Section 3.01(F) or the requirements and standards set by the South Carolina Department of Health and Environmental Control or its successor agency. All storm water systems and improvements will be maintained by Developer or a homeowners' association.

County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(E) Solid Waste Collection. The County shall provide solid waste collection to the Property on the same basis as is provided to other residents and businesses within the County. It is understood and acknowledged that the County does not presently provide solid waste disposal for single, multi-family or commercial developments. Residential units shall be served by a private waste hauling company.

(F) Law Enforcement Protection. The County shall provide law enforcement protection services to the Property on the same basis as is provided to other residents and businesses within the County.

(G) Recycling Services. The County shall provide recycling services to the Property on the same basis as is provided to other residents and businesses within the County.

(H) Emergency Medical Services (EMS). Emergency medical services shall be provided by the County to the Property on the same basis as is provided to other residents and businesses within the County.

(I) Fire Services. The Property is located in the Pleasant Valley Fire Protection District and fire services will be provided by the Pleasant Valley Fire Department, or successor entities.

(J) Library Service. The County shall provide library services on the same basis as is provided to other residents within the County.

(K) School Services. Public school services are now provided by the Lancaster County School District. Developer acknowledges that County has no authority or responsibility for providing public school services in the County.

(L) Parks and Recreation. The County shall provide parks and recreation services on the same basis as is provided to other residents within the County.

Section 4.05. Maximum Density. Notwithstanding the maximum density set forth in the UDO, the maximum density for residential use for the Property is ____ () dwelling units per acre. **[Need to confirm]**

Section 4.05A. Final Plat Approval. Notwithstanding any other provision of this Agreement or any provision of the UDO, Developer agrees that prior to seeking final plat approval: (i) all water and sewer infrastructure for the area that is the subject of the final plat shall be installed by the Developer and subsequently tested, inspected, and found to be in acceptable condition by the applicable water or sewer provider, and (ii) the appropriate permits from the South Carolina Department of Health and Environmental Control (DHEC) have been obtained by the Developer for storm water management and the Developer shall provide proof that DHEC has issued the appropriate permits.

ARTICLE V

MISCELLANEOUS

Section 5.01. Notices. Any notice, election, demand, request or other communication to be provided under this Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in Federal Express (or any other reputable national “next day” delivery service) addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

To the County: County of Lancaster
 Attn: County Administrator
 101 N. Main St. (29720)
 P.O. Box 1809 (29721)
 Lancaster, SC

With Copy to: County of Lancaster
 Attn: County Attorney
 101 N. Main St. (29720)
 P.O. Box 1809 (29721)
 Lancaster, SC

And to Developer: Forestar (USA) Real Estate Group Inc.
 3330 Cumberland Blvd., Suite 275
 Atlanta, GA 30339
 Attn: Larry Long and Brian Blythe

With Copy to: Nexsen Pruet, PLLC
 Attn: Joseph D. McCullough
 227 W. Trade Street, Suite 1550
 Charlotte, North Carolina 28202

Section 5.02. Amendments. (A) This Agreement may be amended or cancelled by mutual consent of the parties to the Agreement. An amendment to this Agreement must be in writing. No statement, action or agreement made after the Agreement Date shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

(B) An amendment to this Agreement must be processed and considered in the same manner as set forth in Ordinance No. 663 for a proposed development agreement. Any amendment to this Agreement constitutes a major modification and the major modification may occur only after public notice and a public hearing by the County Council.

(C) This Agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the Agreement Date which prevents or precludes compliance with one or more of the provisions of this Agreement but only to the extent necessary to effectuate compliance with the state or federal law.

Section 5.03. Periodic Review. At least every twelve (12) months, the Chief Zoning Officer for the County or the designee of the Chief Zoning Officer for the County, or the successor to the Chief Zoning Officer for the County, must review compliance with this Agreement by the Developer. At the time of review the Developer must demonstrate good faith compliance with the terms of the Agreement.

Section 5.04. Breach of Agreement. (A) If, as a result of the periodic review provided in Section 5.03 of this Agreement or at any other time, the Chief Zoning Officer for the County finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement, the Chief Zoning Officer for the County shall serve notice in writing, within a reasonable time after making the finding and determination of a material breach, upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

(B) If the Developer fails to cure the material breach within a reasonable time and is not proceeding expeditiously and with diligence to cure the breach, then the County Council may unilaterally terminate or modify this Agreement. Prior to terminating or modifying this Agreement as provided in this section, the County Council must first give the Developer the opportunity (i) to rebut the finding and determination, or (ii) to consent to amend the Agreement to meet the concerns of the County Council with respect to the findings and determinations.

Section 5.05. Enforcement. The Parties shall each have the right to enforce the terms, provisions and conditions of this Agreement, if not cured within the applicable cure period, by any remedy available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with enforcement.

Section 5.06. No Third Party Beneficiary. The provisions of this Agreement may be enforced only by the Parties. No other persons shall have any rights hereunder.

Section 5.07. Recording of Agreement. The Parties agree that Developer shall record this Agreement with the County Register of Deeds within fourteen (14) days of the date of execution of this Agreement.

Section 5.08. Administration of Agreement. County is the only local government that is a party to this Agreement and the County is responsible for the Agreement's administration.

Section 5.09. Effect of Annexation and Incorporation. The Parties agree that this Agreement remains in effect if the Property is, in whole or in part, included in a newly-incorporated municipality or is annexed into a municipality. The Parties acknowledge that upon incorporation or annexation the application and duration of this Agreement is controlled by

Section 6-31-110 of the Act. County reserves the right to enter into an agreement with the newly-incorporated municipality or the annexing municipality for the administration and enforcement of this Agreement after the date of incorporation or annexation.

Section 5.10. Estoppel Certificate. Any of the Parties may, at any time, and from time to time, deliver written notice to the other party requesting the party to certify in writing (i) that this Agreement is in full force and effect, (ii) that this Agreement has not been amended or modified, or if so amended, identifying the amendments, (iii) whether, to the knowledge of the party, the requesting party is in default or claimed default in the performance of its obligation under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and (iv) whether, to the knowledge of the party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

Section 5.11. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions, and understandings among the Parties relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among the Parties relative to the matters addressed in this Agreement other than as set forth or as referred to in this Agreement.

Section 5.12. Covenant to Sign other Documents. County and Developer acknowledge that consummation of the transactions contemplated by this Agreement may require the execution contemporaneously with the execution of this Agreement and thereafter of certain documents in addition to this Agreement and County and Developer agree to cooperate with the execution thereof.

Section 5.13. Construction of Agreement. The Parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 5.14. Assignment. The rights, obligations, duties and responsibilities devolved by this Agreement on or to the Developer are assignable to any other person, firm, corporation or entity except that the assignment must conform to the requirements of Section 1.09 and Section 3.05. County may assign its rights, obligations, duties and responsibilities devolved by this Agreement on or to the County to any other person, firm, corporation, or entity.

Section 5.15. Governing Law; Jurisdiction; and Venue. (A) This Agreement is governed by the laws of the State of South Carolina.

(B) The Parties agree that jurisdiction and venue for disputes relating to this Agreement is the Sixth (6th) Judicial Circuit of the State of South Carolina.

Section 5.16. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

Section 5.17. Eminent Domain. Nothing contained in this Agreement shall limit, impair or restrict the County's right and power of eminent domain under the laws of the State of South Carolina.

Section 5.18. Severability. If any provision in this Agreement or the application of any provision of this Agreement is held invalid, the invalidity shall apply only to the invalid provision, and the remaining provisions of this Agreement, and the application of this Agreement or any other provision of this Agreement, shall remain in full force and effect. However, if the invalid provision would prevent or materially impair Developer's right or ability to complete performance of this Agreement, the Parties agree to use their best efforts to renegotiate that provision in order for Developer to complete performance of this Agreement.

Section 5.19. When Agreement takes Effect. This Agreement is dated as of the Agreement Date and takes effect when (i) the County and Developer have each executed the Agreement, and (ii) the Developer has delivered to the County Administrator clocked-in copies, with book and page numbers, of the recorded deeds conveying the Property to Developer. If the County Administrator has not received clocked-in copies of the deeds conveying the Property to Developer by 5:00 p.m., _____, _____, 2015, then this Agreement is automatically terminated without further action of either the County or Developer. The obligation of the Developer pursuant to Section 4.02 is effective on the date the last Party to sign this Agreement executes this Agreement and the obligations imposed on Developer pursuant to Section 4.02 survives the termination of this Agreement pursuant to this Section.

SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date below found.

WITNESSES:

DEVELOPER:

FORESTAR (USA) REAL ESTATE GROUP INC.,
a _____ corporation

By: _____

Name: _____

Title: _____

Date: _____

STATE OF _____)

COUNTY OF _____)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Forestar (USA) Real Estate Group Inc., by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

First Witness Signs Again Here

Seal

SWORN to before me this
____ day of _____, 2015.

Notary Public Signs AS NOTARY

Notary Public for the State of _____

My Commission Expires: _____

COUNTY SIGNATURES FOLLOW ON NEXT PAGE.

WITNESSES:

COUNTY:

COUNTY OF LANCASTER,
SOUTH CAROLINA

By:

Bob Bundy, Chair, County Council

Date:

By:

Steve Harper, Secretary, County Council

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named County of Lancaster by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

First Witness Signs Again Here

Seal

SWORN to before me this
 ____ day of ____, 2015.

Notary Public Signs AS NOTARY
Notary Public for the State of South Carolina
My Commission Expires:

Exhibit A
Property Description

Ansley Park Development

Tax Parcel No. 0010-00008.00

LEGAL DESCRIPTION SHOULD BE INSERTED WHEN AVAILABLE.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit B

THIS EXHIBIT IS INTENTIONALLY LEFT BLANK.

Exhibit C
Development Schedule

	<u>Begin</u>	<u>End</u>
Engineering and Permitting	_____	_____
Phased Land Development	_____	_____
Home Construction Starts	_____	_____
Year 1 Home Closings – Approx. ____ per year	_____	_____
Year 2 Home Closings – Approx. ____ per year	_____	_____
Year 3 Home Closings – Approx. ____ per year	_____	_____
Year 4 Home Closings – Approx. ____ per year	_____	_____
Year 5 Home Closings – Approx. ____ per year	_____	_____

This Development Schedule is an estimate. The provisions of Section 1.07 of this Agreement apply to this exhibit.

NOTE: County and Developer acknowledge that development of the Property is limited to three hundred twenty (320) residential units.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit D
Required Information

The Act and Ordinance No. 663 require a development agreement to include certain information. The following information is provided in conformance with the Act and Ordinance No. 663.

(A) *a legal description of the property subject to the agreement and the names of the property's legal and equitable owners.* The legal description of the Property is set forth in Exhibit A. As of the Agreement Date, Developer has contractual rights to acquire the Property and, following acquisition, Developer shall be the only legal and equitable owner of the Property. As of the Agreement Date, the legal owner of the Property is Jacqueline S. White, Trustee, Milbern Charles White Family Trust under agreement dated June 15, 2009.

(B) *the duration of the agreement which must comply with Code Section 6-31-40.* See Section 1.10.

(C) *a representation by the developer of the number of acres of highland contained in the property subject to the agreement.* See Section 2.02.

(D) *the then current zoning of the property and a statement, if applicable, of any proposed re-zoning of the property.* See Section 1.05.

(E) *the development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height.* See Section 1.06 and Section 4.05.

(F) *a description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the County shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.* See Article IV.

(G) *a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement.* Developer agrees to comply with all applicable environmental laws.

(H) *a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.* See Section 3.04.

(I) *a finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the County's comprehensive plan and land development regulations. See Section 2.01(A).*

(J) *a description, where appropriate, of any provisions for the preservation and restoration of historic structures. Developer agrees to comply with all laws applicable to the preservation and restoration of historic structures within the Property.*

(K) *a development schedule including commencement dates and interim completion dates at no greater than five year intervals. See Section 1.07 and Exhibit C.*

(L) *if more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement. See Section 5.08.*

(M) *a listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both. See Section 3.01(B) and Exhibit E.*

(N) *a provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement. See Section 3.03.*

(O) *a provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply. See Section 5.09.*

(P) *a provision relating to the amendment, cancellation, modification or suspension of the agreement. See Section 5.02.*

(Q) *a provision for periodic review, consistent with the provisions of Section 8 of Ordinance No. 663. See Section 5.03.*

(R) *a provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9 of Ordinance No. 663. See Section 5.04.*

(S) *a provision that the developer, within fourteen days after the County enters into the agreement, will record the agreement with the County Register of Deeds. See Section 5.07.*

(T) *a provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement. See Section 1.09(A).*

(U) *a provision addressing the conditions and procedures by which the agreement may be assigned. See Section 1.09(B), Section 3.05 and Section 5.14.*

Exhibit E
Laws and Land Development Regulations

1. Ordinance No. 650, as amended, zoning the Property planned development district (PDD-21).
2. Ordinance No. 2015-_____, approving this Development Agreement.
3. The Development Agreement Ordinance for Lancaster County, South Carolina: Ordinance No. 663.
4. Unified Development Ordinance of Lancaster County (UDO): Ordinance No. 309, as amended as of January 31, 2005. The UDO includes Ordinance No. 328, as amended, as of January 31, 2005 and which is cited as the Land Development Regulations of Lancaster County.
5. Land Development Regulations of Lancaster County: See Unified Development Ordinance of Lancaster County.
6. Article V, Chapter 26, Lancaster County Code of Ordinances, Road Construction Standards, as of the Agreement Date, including, but not limited to, Section 26-27(B)(3)(a) and (b) of the Lancaster County Code of Ordinances, as amended by Ordinance No. 2014-1299.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Agenda Item Summary

Ordinance # 2015-1379

Contact Person / Sponsor: John Weaver

Department: County Attorney

Date Requested to be on Agenda: October 26, 2015

Committee: Administration Committee

Issue for Consideration: Whether or not it is appropriate to consider passage of this Ordinance relating to a FILOT Agreement with special source revenue credits with Movement Mortgage and TKC CCII, LLC.

Points to Consider: On December 8, 2014, Council considered and passed Resolution No. 0857-R2014, an Inducement Resolution for the joint benefit of Lancaster County and Project Wahoo, a project now identified and Movement Mortgage. Therein, the company pledged an investment in real and personal property of \$21.2 Million Dollars and at least 672 new jobs. In exchange, the County pledged the incentives noted therein (the Resolution accompanies this Item Summary) and reiterated within the ordinance being considered by Council.

Funding and Liability Factors: N/A

Council Options: Approval or rejection (denial) of the Ordinance.

Recommendation: Approval.

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

RESOLUTION NO. 0857-R2014

A RESOLUTION

AN INDUCEMENT RESOLUTION IDENTIFYING A PROJECT TO SATISFY THE REQUIREMENTS OF TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA, AS AMENDED, SO AS TO ALLOW INVESTMENT EXPENDITURES INCURRED BY PROJECT WAHOO TO QUALIFY AS EXPENDITURES ELIGIBLE FOR A FEE IN LIEU OF TAX ARRANGEMENT WITH LANCASTER COUNTY, SOUTH CAROLINA; AND COMMITTING TO ENTER INTO SUCH NECESSARY AGREEMENTS WITH PROJECT WAHOO TO EFFECTUATE THE INTENT OF THIS RESOLUTION; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Lancaster County, South Carolina (the "County"), a political subdivision of the State of South Carolina (the "State"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Act") to encourage investment in the State by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State by accepting certain payments in lieu of ad valorem taxes with respect to such investment;

WHEREAS, a company, PROJECT WAHOO, and one or more affiliates (collectively, the "Company"), is considering the construction and installation of a project upon property located in the County (collectively, the "Project"), provided that the County enters into certain fee-in-lieu of tax arrangements with the Company, as set forth herein;

WHEREAS, in connection with the Project, the Company has requested that the County enter into an agreement to establish the intention of (i) the Company to make the minimum investment in economic development property required under the Act, and (ii) upon investment in such economic development property, the binding agreement of the County to provide fee-in-lieu of tax ("FILOT") incentives, as set forth more fully in such agreement;

WHEREAS, the Company has informed the County that it intends to make or cause to be made new, taxable investments eligible for FILOT incentives under the Act, consisting of real and personal property related to the Project in the County of at least \$21,200,000.00 and intends to create at least 672 new jobs over the first five (5) years of the Project, and the County intends to commit itself to entering into a fee-in-lieu of tax agreement with the Company under the Act so that the Company may qualify the Project for benefits under the Act; and

WHEREAS, in accordance with the Act and based on representations of the Company, the County has determined that (i) the Project will benefit the 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 on the part of the County or incorporated municipality and to no charge against the general credit or taxing power of either the County or any incorporated municipality; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

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

1. It is the intention of the County Council that this Resolution shall constitute an official action on the part of the County identifying and inducing the Project under the Act. It is furthermore the intention

of the County that this Resolution shall constitute an "inducement resolution" as such term is defined in the Act.

2. Provided that the County and Project Wahoo agree to the terms of and sign a fee agreement as provided under the Act, the County Council hereby authorizes a FILOT for the Project providing for (i) a combined minimum investment of \$21,200,000.00 in economic development property toward the Project and the creation of 672 new jobs during the first five (5) years of the Project; (ii) an assessment ratio on the Project's economic development property not to exceed six percent (6.0%); (iii) a fixed millage rate fixed for the entire term of the fee agreement equal to the millage rate applicable as of June 30, 2014 or June 30, 2015 to the taxing district in which the Project will be located; (iv) a fee term of thirty (30) years, or longer, as provided under the Act; and (v) a Special Source Revenue Credit ("SSRC") of 50% for five (5) consecutive years followed by a 25% SSRC for years six (6) through ten (10), with said ten (10) year term to run consecutive. The County also agrees to use its best efforts to either adopt a new or amend an already existing MCIP Agreement it presently shares with an adjoining County, if necessary, to include as eligible property the real property comprising the Project.

3. The final terms of the fee agreement between the County and Project Blue II, consistent with the provisions set forth in Section 2 above, shall be as approved by subsequent ordinance of the County Council.

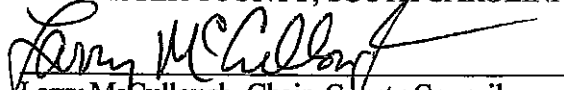
4. It is understood that Project Wahoo shall be responsible for reimbursing the County for its reasonable attorney's fees for the negotiation and review of all final documentation and authorizing proceedings on behalf of the County.

5. This Resolution shall take effect and be in full force from and after its passage by the County Council.

Adopted this 8th day of December, 2014.


[SEAL]

LANCASTER COUNTY, SOUTH CAROLINA



Larry McCullough, Chair, County Council


Jack Estridge, Secretary, County Council

Attest:


Debbie C. Hardin, Clerk to Council

Approved as to form:


John L. Weaver, County Attorney

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2015-1379

COUNTY OF LANCASTER

)

)

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND AMONG LANCASTER COUNTY AND MOVEMENT MORTGAGE, LLC AND TKC CCII, LLC PROVIDING FOR THE PAYMENT OF A FEE-IN-LIEU OF TAXES AND THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO EXPRESS THE INTENTION OF COUNCIL TO PROVIDE MONIES TO THE ECONOMIC DEVELOPMENT FUND; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings.

The Lancaster County Council finds that:

(a) Lancaster County, South Carolina (the "County") acting by and through its County Council (the "Council") is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the "Act") to enter into fee-in-lieu of tax ("FILOT") agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the "State") and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the manpower, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally;

(b) the County is authorized by Sections 4-1-175 and 4-29-68 of the Code of Laws of South Carolina 1976, as amended, to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

(c) Movement Mortgage, LLC (the "Sponsor") is considering investing, through itself and/or one or more existing or to be formed affiliated entities and/or one or more unrelated parties, including TKC CCII, LLC (the "Sponsor Affiliate"), in personal property and certain real estate improvements located in

the County which would constitute a project within the meaning of the Act and which are eligible for inclusion as economic development property, the cost of which is estimated to be approximately Twenty-One Million, Two Hundred Thousand Dollars (\$21,200,000.00) over five (5) years (the "Project");

(d) pursuant to Resolution No. 0857-R2014, adopted December 8, 2014, the Council approved an Inducement Resolution providing for, among other things, the agreement of the County to enter into a fee-in-lieu of tax incentive with the Sponsor and the provision of special source revenue credits;

(e) the Sponsor and Sponsor Affiliate have caused to be prepared and presented to the Council the form of the Fee Agreement by and among the County, the Sponsor and the Sponsor Affiliate (the "Fee Agreement"), which provides for fee-in-lieu of tax payments utilizing a six percent (6%) assessment ratio and fixed millage rate as of June 30, 2014 (which is understood to be 282.4 mills) for a period of thirty (30) years for the Project or each component thereof placed in service during the initial investment period and any investment period extension to which the County, the Sponsor and the Sponsor Affiliate agree, and for special source revenue credits equal to fifty percent (50%) of the fee-in-lieu of tax payments for years one (1) through five (5) and twenty-five percent (25%) of the fee-in-lieu of tax payments for years six (6) through ten (10); and

(f) it appears that the Fee Agreement, which is attached to this ordinance, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

Section 2. Approval of Fee Agreement.

Subject to the provisions of Section 5 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State by assisting the Sponsor and Sponsor Affiliate to expand or locate an industrial facility in the State, the Fee Agreement is hereby authorized, ratified, and approved.

Section 3. Statutory Findings.

Council makes the following additional findings:

(a) The Project will constitute a "project" as the term is referred to and defined in the Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

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

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

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

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.

- (g) The benefits of the Project to the public will be greater than the costs to the public.

Section 4. Cost-Benefit Findings.

Council makes the following findings concerning the costs and benefits of the Project:

(a) The benefits of providing the incentives arrangement set forth in the Fee Agreement include: (i) investment in personal property and certain real estate improvements of at least \$21,200,000; (ii) an average annual increase in property taxes (FILOT payments) of approximately \$_____ after application of incentives; (iii) construction benefit of \$_____; (iv) facility operation benefit of \$_____; (v) employee benefit of \$_____; and (vi) visitor benefit of \$_____. The total benefit is estimated at \$_____;

(b) The cost of providing the incentives arrangement is estimated at: (i) development costs of \$_____; (ii) operational costs of \$_____; and (iii) employee costs of \$_____. The total cost is estimated at \$_____.

(c) The benefit to cost ratio in year one is estimated at \$_____:1 and after year one at \$_____:1.

(d) The value of the FILOT incentive to the Sponsor and the Sponsor Affiliate is estimated at \$_____ and the special source revenue credits at \$_____.

Section 5. Approval and Execution of Fee Agreement.

The form, terms, and provisions of the Fee Agreement, attached hereto as Exhibit A, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Fee Agreement was set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Sponsor and the Sponsor Affiliate. The Fee Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Fee Agreement attached to this ordinance.

Section 6. Economic Development Fund.

(A) Council finds that (i) by passage of Ordinance No. 2014-1260, Council created an Economic Development Fund with the intent to make monies available to the fund from new revenues to the County derived from new and expanded businesses and industry, and (ii) the ability to make monies available to the Economic Development Fund can be difficult because of complexities and legalities applicable to fee-in-lieu of tax arrangements and multi-county parks.

(B) It is the intent of Council, in the annual County budget, to appropriate monies to the Economic Development Fund based on the new revenue that the County receives pursuant to the Fee Agreement. Specifically, it is Council's intent to appropriate from the General Fund of the County an amount based on the following formula: Seven percent (7%) times the amount of money received pursuant to the Fee Agreement by the County after distribution to other taxing entities in the most recently completed tax year.

Section 7. Authority to Act.

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

Section 8. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 9. Controlling Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 10. Effective Date.

This ordinance is effective upon third reading.

SIGNATURES FOLLOW ON NEXT PAGE.

AND IT IS SO ORDAINED, this 23rd day of November, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

First Reading:	October 26, 2015	Tentative
Second Reading:	November 9, 2015	Tentative
Public Hearing:	November 23, 2015	Tentative
Third Reading:	November 23, 2015	Tentative

Exhibit A to Ordinance No. 2015-_____

Fee Agreement

Lancaster County, Movement Mortgage, LLC and TKC CCH, LLC

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

FEE AGREEMENT

by and among

LANCASTER COUNTY, SOUTH CAROLINA,

MOVEMENT MORTGAGE, LLC, as Sponsor

and

TKC CCII, LLC, as Sponsor Affiliate

Dated as of _____, 2015

FEE AGREEMENT

This FEE AGREEMENT is dated as of _____, 2015, by and among LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), MOVEMENT MORTGAGE, LLC, a Delaware limited liability company, or affiliated or related entities (the "Sponsor") and TKC CCII, LLC, a North Carolina limited liability company, or affiliated or related entities (the "Sponsor Affiliate" and together with the Sponsor referred to herein as the "Company").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the "Act") of the Code of Laws of South Carolina 1976, as amended (the "Code") and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the "Multi-County Park Act"): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain industrial and commercial properties through which the economic development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the workers, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project (a "FILOT"); and (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Sponsor proposes to make new taxable investments in the County (the "Project"); and

WHEREAS, the Sponsor Affiliate owns the property where the Project will be located and improvements made thereon and thereto; and

WHEREAS, the Sponsor anticipates that the Project will result in the creation of approximately 672 new, full time jobs and, and the Company anticipates that the Project will result in an investment of approximately \$21,200,000 in the County; and

WHEREAS, as a result of the Sponsor making new and taxable investments in the County, the Sponsor and Sponsor Affiliate requested that the County enter into this Fee Agreement with the Sponsor and Sponsor Affiliate pursuant to the Act, and the Sponsor and Sponsor Affiliate elect to enter into such FILOT arrangement with the County in an effort to encompass the terms surrounding the Project and allowing the Sponsor to make FILOT payments pursuant to the Act; and

WHEREAS, the Project constitutes Economic Development Property within the meaning of the Act; and

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Fee Agreement with the Sponsor and Sponsor Affiliate, subject to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Sponsor and Sponsor Affiliate to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Sponsor and Sponsor Affiliate agree as follows:

ARTICLE I

DEFINITIONS AND RECAPITULATION

Section 1.01. Statutorily Required Recapitulation; Summary Agreement.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Sponsor and Sponsor Affiliate agree to waive the recapitulation requirements of Section 12-44-55 of the Act. Subsection (b) of this section is inserted for convenience only and does not constitute a part of this Agreement or a summary compliant with Section 12-44-55 of the Act.

(b) Summary of Agreement.

1. Legal name of each initial party to this Agreement:
Movement Mortgage, LLC, a Delaware corporation, or its affiliated or related entities (Sponsor) and TKC CCII, LLC, a North Carolina limited liability company, its affiliated or related entities (Sponsor Affiliate) and Lancaster County, South Carolina
2. County and street address of the Project and property to be subject to this Agreement:

8024 Calvin Hall Road, Indian Land, South Carolina, 29707, Lancaster County
3. Minimum investment agreed upon:
\$21,200,000.00
4. Length and term of this Agreement:
30 years for each annual increment of investment in the Project during the Investment Period.
5. Assessment ratio applicable for each year of this Agreement:
6%
6. Millage rate applicable for each year of this Agreement:
Every year of the term: 282.4 mills, the millage rate applicable as of June 30, 2014

7. Schedule showing the amount of the fee and its calculation for each year of this Agreement:
Waived by the County and the Sponsor and Sponsor Affiliate
8. Schedule showing the amount to be distributed annually to each of the affected taxing entities:
Waived by the County and the Sponsor and Sponsor Affiliate
9. Statements
 - (a) The Project is to be located in a multi-county park;
 - (b) Disposal of property, subject to Payments-in-Lieu-of-Taxes is allowed;
 - (c) Special Source Revenue Credits shall be given to the qualifying property in amounts equal to 50% for years 1 – 5, and 25% for years 6 – 10.
 - (d) Payment will not be modified using a net present value calculation; and
 - (e) Replacement property provisions will apply.
10. Any other feature or aspect of this Agreement which may affect the calculation of items (7) and (8) of this summary.
Waived by the County and the Sponsor and Sponsor Affiliate
11. Description of the effect upon the schedules required by items (7) and (8) of this summary of any feature covered by items (9) and (10) not reflected in the schedules for items (7) and (8)
Waived by the County and the Sponsor and Sponsor Affiliate
12. Which party or parties to this Agreement are responsible for updating any information contained in this summary:
Waived by the County and the Sponsor and Sponsor Affiliate

Section 1.02. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings, unless the context or use indicates another or different meaning or intent.

“Act” or “*Simplified FILOT Act*” shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

“*Administration Expense*” shall mean the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Fee Agreement, (ii) the preparation, review, approval and execution of other documents related to the Fee Agreement and any multi-county park documents; and (iii) the fulfillment of its obligations under this Fee Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof.

"Agreement" shall mean this Fee Agreement by and among the County and the Sponsor and Sponsor Affiliate, as originally executed and from time to time supplemented or amended as permitted herein or by the Act, and dated as of _____, 2015.

"Code" shall mean the Code of Laws of South Carolina 1976, as amended through the date hereof, unless the context clearly requires otherwise.

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

"County Council" shall mean the governing body of the County and its successors.

"Department of Revenue" shall mean the South Carolina Department of Revenue.

"Economic Development Property" shall mean each item of real and tangible personal property comprising the Project, except (if applicable) Non-Qualifying Property, within the meaning of that term as defined and used in Sections 12-44-30(6) and 12-44-40(C) of the Code.

"Equipment" shall mean all machinery, equipment, furnishings, and other personal property acquired by the Sponsor or Sponsor Affiliate and installed as part of the Project during the Investment Period in accordance with this Agreement.

"Event of Default" shall mean an Event of Default of the Sponsor as defined in Section 11.01 hereof.

"Existing Property" shall mean property proscribed from becoming Economic Development Property pursuant to Section 12-44-110 of the Code, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to the execution and delivery of this Agreement and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) property acquired or constructed by the Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; or (b) modifications which constitute an expansion of Existing Property.

"FILOT" shall mean the fee-in-lieu of taxes, which the Sponsor is obligated to pay to the County pursuant to Section 5.01 hereof.

"FILOT Payments" shall mean the payments to be made by the Sponsor pursuant to Section 5.01 hereof.

"FILOT Revenues" shall mean the revenues received by the County from the Sponsor's payment of the FILOT.

"Investment Period" shall mean the period beginning with the first day that the Sponsor or Sponsor Affiliate purchased or purchases Economic Development Property and ending on the date that is five years from the end of the property tax year in which this Agreement is executed

by the Sponsor and Sponsor Affiliate and the County, unless extended by agreement of the County and the Sponsor and Sponsor Affiliate pursuant to Section 12-44-30(13) of the Code.

"Indemnified Party" shall mean the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County.

"Land" shall mean the real estate upon which the Project is to be located, as described in Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with the provisions hereof.

"Multi-County Park" shall mean the multi-county park established pursuant to the Agreement for the Development of a Joint Industrial and Business Park (Lancaster and Chester Counties), dated December 5, 2005, and authorized and approved by Lancaster County Ordinance No. 701 and Chester County Ordinance No. 12-05-05-I, as amended by the party counties (the "Multi-County Park Agreement"), and any successor multi-county park arrangement in which the Land is included.

"Multi-County Park Act" shall mean Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

"Negotiated FILOT Payment" shall mean the FILOT due pursuant to Section 5.01(b) hereof with respect to that portion of the Project consisting of Economic Development Property.

"Non-Qualifying Property" shall mean (if applicable) that portion of the Project consisting of: (i) property as to which the Sponsor or Sponsor Affiliate incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Sponsor and Sponsor Affiliate have terminated the Negotiated FILOT pursuant to Section 4.03(a)(iii) hereof. The Sponsor and Sponsor Affiliate agree that the real estate improvements on the Land as of the date of this Agreement shall constitute Non-Qualifying Property for purposes of this Agreement.

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

"Project" shall mean, collectively herein, the Project, and shall include the buildings and other improvements on the Land to the extent placed thereon by the Sponsor or Sponsor Affiliate including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including the Equipment; and any Replacement Property.

"Project Commitments" shall mean the investment and job commitments of the Sponsor with respect to the Project as set forth in Section 2.02(d) of this Agreement.

“Released Property” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in Article VII hereof, and any infrastructure which the Sponsor and Sponsor Affiliate dedicate to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

“Replacement Property” shall mean all property installed in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(g) hereof and Section 12-44-60 of the Code.

“Simplified FILOT Act” shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

“Special Source Revenue Credits” shall mean the Special Source Revenue Credits described in Section 5.01 hereof.

“Sponsor” shall mean Movement Mortgage, LLC, a Delaware limited liability company and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets permitted under section 8.02 or Article IX hereof; or any assignee hereunder which is designated by the Sponsor and approved or ratified by the County. Except as required by law, the County’s subsequent approval or ratification of an assignee hereunder shall not be required if the subsequent Assignee is Sponsor or Sponsor Affiliate.

“Sponsor Affiliate” shall mean TKC CCII, LLC, a North Carolina limited liability company, or affiliated or related entities as qualified under Section 12-44-30(20) of the Code; provided, however, that such affiliate or related entity must be approved by the County as a sponsor affiliate and must agree in writing to be bound by this Agreement.

“State” shall mean the State of South Carolina.

“Streamlined FILOT Act” shall mean Title 4, Chapter 12 of the Code, as amended through the date hereof.

“Term” shall mean the term of this Agreement, as set forth in Section 10.01 hereof.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Code, as amended through the date hereof.

Section 1.03. References to Agreement. The words “hereof,” “herein,” “hereunder” and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties by County. The County represents and warrants that: (i) it is a body politic and corporate and a political subdivision of the State; (ii) it is authorized by the Act to enter into this Agreement; (iii) it has approved this Agreement in accordance with the procedural requirements of the Act and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Fee Agreement.

Section 2.02. Representations and Warranties by Sponsor. The Sponsor makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Movement Mortgage, LLC is a limited liability company, validly existing and in good standing under the laws of the State of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT have been instrumental in inducing the Sponsor to locate the Project within Lancaster County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Sponsor are pending or threatened against or affecting the Sponsor in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) For the Project, and together with the Sponsor Affiliate, the Sponsor anticipates a total investment of approximately Twenty-One Million, Two Hundred Thousand Dollars (\$21,200,000.00) in land, buildings, and personal property, including machinery and equipment, at the Project by the end of the Investment Period, and the Sponsor anticipates the creation of 672 new, full time jobs by the end of the Investment Period. The investment amount shall not include any amount paid by the Sponsor or Sponsor Affiliate for real estate improvements on the land existing as of the date of this Agreement.

(e) The income tax year of the Sponsor, and accordingly the property tax year, for federal income tax purposes is _____.

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

(g) The Sponsor intends, with the Project, to make new, taxable investments in the County, and the Project constitutes a "project" and "economic development property" as provided under the Act.

Section 2.03. Representations and Warranties by Sponsor Affiliate. The Sponsor Affiliate makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) TKC CCIL, LLC is a limited liability company validly existing and in good standing under the laws of the State of North Carolina and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Sponsor Affiliate are pending or threatened against or affecting the Sponsor Affiliate in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

ARTICLE III

UNDERTAKINGS OF THE COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Sponsor in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. The Sponsor and Sponsor Affiliate acknowledge that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for the Sponsor's purposes or needs. No representation of the County is hereby made with regard to compliance by the Project or any Person with laws regulating: (i) the construction or acquisition of the Project; (ii) environmental matters pertaining to the Project; (iii) the offer or sale of any securities; or (iv) the marketability of title to any property.

Section 3.03. Multi-County Park Status. The County agrees to keep the Land in the Multi-County Park for the term of this Agreement, *provided, however*, the County may place the Land in another multi-county park established pursuant to the Multi-County Park Act so long as the Land is continuously included within the boundaries of a multi-county park established pursuant to the Multi-County Park Act.

Section 3.04. Execution of Lease. The parties acknowledge that the intent of this Agreement is to afford the Sponsor and Sponsor Affiliate the benefits of the Negotiated FILOT Payments in consideration of the Sponsor's decision to locate the Project within Lancaster County and that this Agreement has been entered into in reliance upon the enactment of the Simplified FILOT Act. In the event that a court of competent jurisdiction holds that the Simplified FILOT Act is unconstitutional or that this Agreement or agreements similar in nature to this Agreement are invalid or unenforceable in any material respect or should the parties

determine that there is a reasonable doubt as to the validity or enforceability of this Agreement in any material respect, then the County, upon the provision by the Sponsor and Sponsor Affiliate of evidence acceptable to the County that the Project is free from environmental contamination and the conveyance of title to the Project to the County at the expense of the Sponsor and Sponsor Affiliate, agrees to lease the Project to the Sponsor and Sponsor Affiliate pursuant to the Streamlined FILOT Act and, to the extent permitted under the law in effect at such time, use its best efforts to ensure that the Sponsor and Sponsor Affiliate receive the benefits of the Negotiated FILOT as contemplated by this Agreement.

In addition to and notwithstanding the foregoing paragraph, the County shall not be obligated to perform any of its obligations or promises under this Section 3.04 unless the Sponsor and Sponsor Affiliate have otherwise complied with or provides satisfactory evidence to the County that they intend to comply with their obligations and responsibilities under this Agreement.

ARTICLE IV

INVESTMENT BY SPONSOR IN PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

Section 4.01. Investment by Sponsor in Project. For the Project, the Sponsor agrees, together with the Sponsor Affiliate, to cumulatively invest at least Twenty-One Million, Two Hundred Thousand Dollars (\$21,200,000.00) in land, buildings, and personal property, including machinery and equipment, at the Project by the end of the initial Investment Period (the "**Minimum Contractual Investment Requirement**"). Further, the Sponsor agrees to create 672 new, full time jobs by the last day of the Investment Period ("**Minimum Contractual Jobs Requirement**"). The investment amount shall not include any amount paid by the Sponsor or Sponsor Affiliate for real estate improvements on the Land existing as of the date of this Agreement.

Section 4.02. Reporting and Filing.

(a) The Sponsor and Sponsor Affiliate agree to provide a copy of Form PT-443 filed with the Department of Revenue to the County Auditor and the County Assessor of the County and any multi-county park partner county not later than 30 days after execution and delivery of this Agreement. Each year during the term of this Agreement, the Sponsor and Sponsor Affiliate shall deliver to the County, the County Auditor, the County Assessor, and the County Treasurer a copy of their most recent annual filings made with the Department of Revenue with respect to the Project, not later than thirty (30) days following delivery thereof to the Department of Revenue.

(b) (1) The Sponsor and Sponsor Affiliate agree to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project placed in service in each property tax year during the Investment Period, the amount of investment with respect thereto and their computations of all FILOT Payments made hereunder

and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act, including the reports described in paragraph (a) (collectively, "Filings").

(2) The Sponsor and Sponsor Affiliate agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all the of Sponsor's and Sponsor Affiliate's books and records pertaining to the Project and the Filings. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by the Sponsor or Sponsor Affiliate to protect the Sponsor or Sponsor Affiliate's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project and Filings shall be at the County's expense.

(c) County acknowledges and understands that the Sponsor and Sponsor Affiliate may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Sponsor or Sponsor Affiliate's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Sponsor and Sponsor Affiliate and could have a significant detrimental impact on the Sponsor's and Sponsor Affiliate's employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Sponsor and Sponsor Affiliate, its agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any person or entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Sponsor and Sponsor Affiliate and give the Sponsor and Sponsor Affiliate the opportunity to contest the release.

Section 4.03 Modification of Project.

(a) As long as no event of default exists hereunder, the Sponsor and Sponsor Affiliate shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Sponsor and Sponsor Affiliate may, at their own expense, add to the Project any real and personal property as the Sponsor and/or Sponsor Affiliate in their discretion deem useful or desirable.

(ii) In any instance where the Sponsor and Sponsor Affiliate in their discretion determine that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Sponsor and Sponsor Affiliate may remove such items or portions from the Project and sell, trade in,

exchange, or otherwise dispose of them (as a whole or in part) without the consent of the County; as such may be permitted under the Simplified FILOT Act.

(iii) The Sponsor and Sponsor Affiliate may, at any time in their discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT (as defined in Section 5.01) set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in Section 5.01(b)(i)(1) hereof.

ARTICLE V

PAYMENTS IN LIEU OF TAXES

Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Sponsor shall pay annually, with respect to the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act.

(b) The FILOT Payment due with respect to each property tax year shall equal:

(i) For the Project:

- (1) With respect to any portion of the Project consisting of Non-Qualifying Property, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such Non-Qualifying Property were it taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land or Non-Qualifying Property were taxable; and
- (2) With respect to those portions of the Project consisting of Economic Development Property, for each of the thirty consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) and (d) below (a "Negotiated FILOT"); less Special Source Revenue Credits given to the Economic Development Property as set forth in paragraph (d) below.

(c) The Negotiated FILOT Payments shall be calculated with respect to each property tax year based on: (1) the fair market value (determined in accordance with Section 12-44-50(A)(1)(c) of the Code) of the improvements to real property and Equipment included within the Project theretofore placed in service (less, for Equipment, depreciation allowable for property tax purposes as provided in Section 12-44-50(A)(1)(c) of the Code), (2) a fixed millage rate of 282.4 for the entire term of this Agreement, and (3) an assessment ratio of six percent (6%). All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have

been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be given to the Economic Development Property in amounts equal to 50% for years 1 – 5, and 25% for years 6-10.

(e) The FILOT payments are to be recalculated:

(i) to reduce such payments in the event the Sponsor and Sponsor Affiliate dispose of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in Section 4.03 hereof, by the amount applicable to the Released Property;

(ii) to increase such payments in the event the Sponsor and Sponsor Affiliate add property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if the Sponsor and Sponsor Affiliate elect to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i)(1) above, as permitted by Section 4.03(a)(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Sponsor to the County in lieu of taxes, it is agreed that said FILOT Payments shall not, as to any year, be in any amount greater than what would otherwise be payable by the Sponsor and Sponsor Affiliate to the County in property taxes if the Sponsor and Sponsor Affiliate had not entered into a fee-in-lieu of taxes arrangement with the County (except it is not intended that said FILOT Payments would necessarily be less than such property taxes to the extent that the constitutional abatement of property taxes would otherwise apply).

(g) Upon the Sponsor and Sponsor Affiliate's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by the Sponsor and Sponsor Affiliate, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the FILOT, whether real or personal, which is disposed of in the same property tax year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of Economic Development Property which it is replacing. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT payment for the period of time remaining on the thirty-year FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to FILOT payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Sponsor, Sponsor Affiliate and the County express their intentions that such payments be reformed so as to afford the Sponsor and Sponsor Affiliate the maximum benefit then permitted by law, including, without limitation, the benefits afforded under Section 12-44-50 of the Code and, specifically, that the Sponsor and Sponsor Affiliate may, at the Sponsor and Sponsor Affiliate's expense, exercise the rights granted by Section 12-44-160 of the Code. If the Project is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Sponsor, Sponsor Affiliate and the County agree that the Sponsor and Sponsor Affiliate shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in Section 5.01(b)(i)(1) hereof. In such event, the Sponsor and Sponsor Affiliate shall be entitled, to the extent permitted by law: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Section 3(g) of Article X of the Constitution of the State of South Carolina, and any other exemption allowed by law; and (2) to enjoy all allowable depreciation. The Sponsor and Sponsor Affiliate agree that if the FILOT Payments or this Agreement is reformed pursuant to this subsection (h), that under no circumstance shall the County be required to refund or pay any monies to the Sponsor or Sponsor Affiliate.

(i) For the Project, in the event that the investment in the Project in land, buildings, and personal property, including machinery and equipment, by the Sponsor and Sponsor Affiliate does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the end of the applicable Investment Period ("**Act Minimum Investment Requirement**"), the Negotiated FILOT Payments will revert retroactively to payments equivalent to what the *ad valorem* taxes would have been with respect to the property absent this Agreement, taking into account exemptions and/or abatements from property taxes that would have been available to the Sponsor and Sponsor Affiliate, including but not limited to any exemption and/or abatement provided pursuant to Section 12-37-220(A)(7) of the Code, less the total amount of Negotiated FILOT Payments actually made by the Sponsor and Sponsor Affiliate. No other penalty shall be asserted against the Sponsor and Sponsor Affiliate, except to the extent required by South Carolina law. The Sponsor and Sponsor Affiliate agree, if the Negotiated FILOT Payments revert to payments equivalent to what the *ad valorem* taxes would be pursuant to this subsection (i), that under no circumstance shall the County be required to refund or pay any monies to the Sponsor or Sponsor Affiliate.

Section 5.02. Clawbacks.

(a) (1) If the Company satisfies the Act Minimum Investment Requirement but does not satisfy either the Minimum Contractual Investment Requirement or the Minimum Contractual Jobs Requirement (note that the Sponsor is responsible for the Minimum Contractual Jobs Requirement and not the Sponsor Affiliate, and therefore if the Minimum Contractual Jobs Requirement is not met but the investment requirements are met, the Sponsor shall be responsible for any resulting clawbacks for failure to meet the Minimum Contractual Jobs

Requirement, if any), or both, the Company shall be required to repay to the County a portion of the Special Source Revenue Credits received and the repayment amount shall be calculated as follows:

Repayment Amount = Total Amount of Special Source Revenue Credits Received minus [dollar amount of Special Source Revenue Credits received times Clawback Achievement Percentage]

Clawback Achievement Percentage = [(Maximum Investment Achieved During Investment Period / \$21,200,000) + (Maximum Number of Jobs Meeting Minimum Contractual Jobs Requirement / 672)] ÷ 2. *Provided, however*, that neither of the two computations may be more than one hundred percent (100%).

For example, and by way of example only, if the Company satisfied the Act Minimum Investment Requirement during the Investment Period, created 700 jobs meeting the Minimum Contractual Jobs Requirement but only achieved a maximum investment of \$20,000,000, and if the Company had received \$500,000 in Special Source Revenue Credits, the Repayment Amount would be \$14,151, calculated as follows:

Clawback Achievement Percentage = (\$20,000,000 / \$21,200,000) + (700 / 675) ÷ 2 = (94.33962% + 100%) ÷ 2 = 194.33962 ÷ 2 = 97.16981%

Repayment Amount = \$500,000 - (\$500,000 x 97.16981%) = \$500,000 - \$485,849 = \$14,151.

(2) If the Sponsor and Sponsor Affiliate are required to make a repayment to the County pursuant to subsection (a)(1) of this section, then the Sponsor and Sponsor Affiliate are not eligible for any Special Source Revenue Credits after the end of the Investment Period.

(3) In the event that both the Minimum Contractual Investment Requirement and the Minimum Contractual Jobs Requirement are satisfied by the end of the Investment Period, but following the Investment Period, investment in the Project, without regard to depreciation or other diminution in value, falls below the investment level set forth in the Minimum Contractual Investment Requirement or the number of new, full-time jobs falls below that set forth in the Minimum Contractual Jobs Requirement, then the Sponsor and Sponsor Affiliate agree that the Sponsor and Sponsor Affiliate forfeit the Special Source Revenue Credit for the year in which either the Minimum Contractual Investment Requirement or the Minimum Contractual Jobs Requirement, or both, is not maintained. On or before May 31 of the year following the end of the Investment Period, and for each year thereafter that the Sponsor and Sponsor Affiliate would be eligible for a Special Source Revenue Credit, the Sponsor and Sponsor Affiliate shall certify to the County Auditor that the Company has complied with the Minimum Contractual Investment Requirement and Minimum Contractual Jobs Requirement, and, to the extent that the credit would apply to a year after the end of the Investment Period, that the Sponsor and Sponsor Affiliate have maintained the Minimum Contractual Investment Requirement and Minimum Contractual Jobs Requirement. If the certification is not made or is received after May 31 of the applicable year, then the Sponsor and Sponsor Affiliate agree that the Special Source Revenue Credit is forfeited for the then applicable year.

(b) Notwithstanding any other provision of this Fee Agreement, the Sponsor and Sponsor Affiliate acknowledges and agrees that County's obligation to provide the FILOT incentive and the Special Source Revenue Credits ends, and this Fee Agreement is terminated, if the Sponsor ceases operations. For purposes of this Section 5.02(b), "ceases operations" means closure of the facility. The provisions of Section 5.02(a) relating to clawback apply if this Fee Agreement is terminated in accordance with this subsection prior to the end of the Investment Period and before the Company has achieved the Minimum Contractual Investment Requirement and Minimum Contractual Jobs Requirement. The Sponsor and Sponsor Affiliate agree that if this Agreement is terminated pursuant to this section, that under no circumstance shall the County be required to refund or pay any monies to the Sponsor and Sponsor Affiliate.

ARTICLE VI

PAYMENT OF EXPENSES BY SPONSOR

Section 6.01. Defaulted Payments. In the event the Sponsor should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of the Sponsor until the amount in default shall have been fully paid. If any such default relates to its obligations to make FILOT Payments hereunder, the Sponsor agrees to pay the same with interest as provided in Section 12-44-90 of the Code.

ARTICLE VII

CASUALTY AND CONDEMNATION

Section 7.01. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, the Sponsor and Sponsor Affiliate, in their sole discretion, may determine whether or not to repair or replace the same. The parties hereto agree that if the Sponsor and Sponsor Affiliate decide not to repair or replace all or any portion of the Project pursuant to this Section, the FILOT required pursuant to Section 5.01 hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes were payable with respect to the Project.

ARTICLE VIII

PARTICULAR COVENANTS AND AGREEMENTS

Section 8.01. Use of Project for Lawful Activities. During the Term of this Agreement, the Sponsor and Sponsor Affiliate shall use the Project for any lawful purpose authorized pursuant to the Act.

Section 8.02. Assignment. The County agrees that, to the maximum extent allowable under the Act (or any amendments thereto), the Sponsor and/or Sponsor Affiliate may assign (including, without limitation, absolute, collateral, and other assignments) all or a part of its rights or obligations under this Agreement, and any lease agreement, lease purchase agreement, or fee agreement, as the case may be, or any other agreement related hereto or thereto, or transfer any and all assets of the Sponsor and/or Sponsor Affiliate, to one or more

Related Entities (as defined in Section 9.01 below) without adversely affecting the benefits of the Sponsor and/or Sponsor Affiliate or their assignees pursuant to any such agreement or the Act. The County agrees that, to the extent permitted by law, the investments in the Project by any Affiliate related to the Sponsor and/or Sponsor Affiliate (except that the investment set for in Section 4.01 hereof must be met in accordance with the terms therein) shall be considered as an investment by the Sponsor and/or Sponsor Affiliate in the Project. The Sponsor and/or Sponsor Affiliate shall provide the County and the Department of Revenue with notice of any such assignment, transfer, or investment in accordance with the Act, and the County agrees, upon the request of the Sponsor and/or Sponsor Affiliate, to take all further action necessary to implement such assignment, transfer, or investment in accordance with the provisions of the Act. To the extent that the Act may require the consent, approval or ratification of or by the County for the assignment of this Agreement, in whole or in part, the County agrees to not unreasonably withhold its consent, approval or ratification.

Section 8.03. Indemnification of the County. The Sponsor and Sponsor Affiliate release the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County (herein collectively referred to as the "Indemnified Parties" and each an "Indemnified Party") from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to this Agreement, the Project or the use thereof, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party. The Sponsor and Sponsor Affiliate further agree to indemnify and save harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the Sponsor and Sponsor Affiliate in the performance of any covenant or agreement on the part of the Sponsor and Sponsor Affiliate to be performed pursuant to the terms of this Agreement or arising from any act or negligence of, or negligent failure to act where there is a duty to do so by, the Sponsor and Sponsor Affiliate, or any of their agents, attorneys, contractors, servants, employees, or licensees, and from and against all cost, liability, and expenses incurred in or in connection with any such claim or action or proceeding brought thereon.

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

Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this Agreement, any related agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by the Sponsor and Sponsor Affiliate, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event the Sponsor and Sponsor Affiliate shall indemnify and hold them

harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon provided, however, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnified Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to place and maintain the Land within a multi-county park). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified Party is entitled to indemnification, such Indemnified Party shall promptly notify the Sponsor and Sponsor Affiliate, and the Sponsor and Sponsor Affiliate shall have the sole right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in their sole discretion; provided the Sponsor and Sponsor Affiliate shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Sponsor and Sponsor Affiliate have the ability to, and do, pay. Notwithstanding the foregoing, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Sponsor and Sponsor Affiliate reasonably determines that a conflict of interest exists between the County and the Sponsor and Sponsor Affiliate, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Sponsor and Sponsor Affiliate shall be liable for the reasonable cost of such counsel.

The indemnity specified in this Section shall be in addition to any heretofore extended by the Sponsor and Sponsor Affiliate to any Indemnified Party and shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. The Sponsor and Sponsor Affiliate may at any time: (a) transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; provided that, in connection with any of the foregoing transfers: (i) except in connection with any transfer to the Sponsor or Sponsor Affiliate, any of the Sponsor and Sponsor Affiliate's affiliates (collectively, the "Related Entities"), or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Sponsor and Sponsor Affiliate shall first obtain the prior written consent or subsequent ratification of the County; (ii) except where a financing entity, which is the income tax owner of all or part of the Project, is the transferee pursuant to clause (b) above and such transferee or financing entity assumes in writing the obligations of the Sponsor and Sponsor Affiliate hereunder, or where the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Sponsor and Sponsor Affiliate hereunder, but all obligations of the Sponsor and Sponsor Affiliate hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety; (iii) the Sponsor and Sponsor Affiliate, transferee, or financing entity shall, within 60 days thereof, furnish or cause to be furnished to the County and the

Department of Revenue a true and complete copy of any such transfer agreement; and (iv) the Sponsor and Sponsor Affiliate and the transferee shall comply with all other requirements of the Transfer Provisions.

The Sponsor and Sponsor Affiliate acknowledge that such a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Sponsor and Sponsor Affiliate with the Transfer Provisions.

Section 9.02. Relative Rights of County and Financing Entities as Secured Parties. The parties acknowledge the application of the provisions of Section 12-44-90 of the Act, and that the County's right to receive FILOT Payments hereunder shall be the same as its rights conferred under Title 12, Chapter 49 and 54, among others, of the Code relating to the collection and enforcement of *ad valorem* property taxes. The County's rights under this Agreement, except for its rights to receive FILOT revenues, shall be subordinate to the rights of any secured party or parties under any financing arrangements undertaken by the Sponsor and Sponsor Affiliate with respect to the Project pursuant to Section 9.01 hereof, such subordination to be effective without any additional action on the part of the County; provided, however, that the County hereby agrees, at the Sponsor's expense, to execute such agreements, documents, and instruments as may be reasonably required by such secured party or parties to effectuate or document such subordination.

ARTICLE X

TERM; TERMINATION

Section 10.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Sponsor and Sponsor Affiliate execute this Agreement, and ending at midnight on the last day of the property tax year in which the last Negotiated FILOT Payment is due hereunder. The Project has a term of thirty years, as calculated pursuant to the respective dates when the relevant portions of the Project are placed in service, and as discussed in greater detail in this Agreement. The County's rights to receive indemnification and payment of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

Section 10.02. Termination. The County and the Sponsor and/or Sponsor Affiliate may agree to terminate this Agreement at any time, or the Sponsor and Sponsor Affiliate, may, at their option, terminate this Agreement at any time upon providing the County 30 days' notice of such termination, in which event the Project shall be subject to *ad valorem* taxes from the date of termination.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

Section 11.01. Events of Default by Sponsor. Any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default by the Sponsor:

(a) if default shall be made in the due and punctual payment of any FILOT Payments, indemnification payments, or Administration Expenses, which default shall not have been cured within 30 days following receipt of written notice thereof from the County;

(b) if default shall be made by the Sponsor in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraph (a), and such default shall continue for 90 days after the County shall have given the Sponsor written notice of such default, provided, the Sponsor shall have such longer period of time as necessary to cure such default if the Sponsor proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; or

(c) a cessation of operations at the Project.

Section 11.02. Remedies on Event of Default by Sponsor. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

(a) terminate this Agreement by delivery of written notice to the Sponsor and Sponsor Affiliate not less than 30 days prior to the termination date specified therein;

(b) have access to and inspect, examine, and make copies of the books, records, and accounts of the Sponsor pertaining to the construction, acquisition, or maintenance of the Project; or

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Sponsor under this Agreement.

Section 11.03. Default by the County. Upon the default of the County in the performance of any of its obligations hereunder, the Sponsor and Sponsor Affiliate may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation, a suit for mandamus or specific performance. Provided, however, that anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money, shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Sponsor and Sponsor Affiliate provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced; and the exercise by the County or by the Sponsor and Sponsor Affiliate of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Sponsor and Sponsor Affiliate of any or all such other rights, powers or remedies.

Section 12.02. Administration Expenses.

(a) The Sponsor agrees to reimburse the County from time to time for its Administration Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administration Expenses.

(b) The Sponsor agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual Fee Payments and any special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at one thousand dollars (\$1000.00).

Section 12.03. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 12.04. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Sponsor and Sponsor Affiliate shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid or via facsimile or other commonly-used electronic transmission or reputable courier service, addressed as follows or to such other persons and places as may be designated in writing by such party.

AS TO THE COUNTY: County of Lancaster, South Carolina
ATTN: Steve Willis, County Administrator
101 N. Main St. (29720)
PO Box 1809 (29721-1809)
Lancaster, South Carolina
Telephone: (803) 416 - 9300
Fax: (803) 285 - 3361
Email: swillis@lanastercountysc.net

WITH A COPY TO: John Weaver
(which shall not constitute notice) County Attorney, Lancaster County
101 N. Main St. (29720)
PO Box 1809 (29721-1809)

Lancaster, South Carolina
Telephone: (803) 416 - 9426
Fax: (803) 285 - 3361
Email: jweaver@lancastercountysc.net

AS TO THE SPONSOR AND SPONSOR AFFILIATE:

Sponsor:

Movement Mortgage, LLC
8024 Calvin Hall Road
Indian Land, South Carolina 29702

With a copy to (which shall not constitute notice):

Ms. Stephanie L. Yarbrough (attorney for Sponsor)
Womble Carlyle Sandridge & Rice, LLP
5 Exchange Street
Charleston, South Carolina 29401
Phone: (843) 720-4621
styarbrough@wcsr.com

Sponsor Affiliate:

TKC CCII, LLC
ATTN: Greg Keith and Ken Beuley
5935 Carnegie Boulevard
Suite 200
Charlotte, North Carolina 28209
Phone: (704) 365-6000
ken@thekeithcorp.com

Section 12.05. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 12.06. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 12.07. Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 12.08. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 12.09. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Section 12.10. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties.

Section 12.11. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 12.12. Force Majeure. The Sponsor and Sponsor Affiliate shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, labor shortages, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor and Sponsor Affiliate's reasonable control.

[SIGNATURE PAGE TO 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 behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council; and the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

ATTEST:

Debbie C. Hardin, Clerk to Council

MOVEMENT MORTGAGE, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

TKC CCII, LLC,
a North Carolina limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

**PROPERTY DESCRIPTION
LANCASTER COUNTY**

Agenda Item Summary

Ordinance # 2015 -1380

Contact Person / Sponsor: John Weaver

Department: Planning / County Attorney

Date Requested to be on Agenda: October 26, 2015

Committee: Administration Committee

Issue for Consideration: Whether or not it is appropriate to favorably consider this ordinance that authorizes the County's sale of a 15.58 acre tract located at 3888 Chester Highway and provides to the prospective Buyer an incentive agreement and special source revenue credits.

Points to Consider: The County has been offered a reasonable sale price for the purchase of the property noted above (temporary courthouse facility) by Project Seating, a manufacturing entity that will renovate, remodel and occupy the facility. The financial investment by the Buyer and the projection of 100 new, fulltime jobs along with the sale of the building all combine for a mutually beneficial result that qualifies for the incentives being offered.

Funding and Liability Factors: N/A

Council Options: Approval or rejection (denial) of the Ordinance.

Recommendation: The County Attorney recommends approval of the Ordinance.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

ORDINANCE NO. 2015-1380

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF AN INFRASTRUCTURE CREDIT AND INCENTIVE AGREEMENT BY AND BETWEEN LANCASTER COUNTY, SOUTH CAROLINA, AND PROJECT SEATING PROVIDING FOR SPECIAL SOURCE REVENUE CREDITS AND THE SALE TO PROJECT SEATING OF APPROXIMATELY 15.58 ACRES OF LAND LOCATED AT 3888 CHESTER HIGHWAY (S.C. 9), TAX PARCEL NO. 0066-00-033.00; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. *Findings and determinations; Purpose.*

(A) The Council finds and determines that:

(1) Lancaster County, South Carolina ("County"), acting by and through its County Council ("Council") is authorized by Sections 4-1-175 and 4-29-68 of the Code of Laws of South Carolina 1976, as amended (collectively, the "Infrastructure Credit Act"), to provide special source revenue credits for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the project and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County;

(2) pursuant to Article VIII, section 13(D) of the South Carolina Constitution and Sections 4-1-170, -172, and -175 of the Code of Laws of South Carolina 1976, as amended (the "MCP Law"), the County is authorized to develop multi-county industrial parks with other

qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries;

(3) Project Seating, a South Carolina limited liability company, its affiliated and related entities and assigns ("Company"), is planning an investment consisting of the expenditure of approximately \$3,100,000 ("Investment") along with the creation of approximately 100 new, full-time jobs ("Jobs") through the acquisition, construction, lease and purchase of certain land, buildings, furnishings, fixtures and equipment in order to expand its electronic equipment manufacturing facility within the County ("Project");

(4) the County owns the land and building consisting of approximately 15.58 acres located at 3888 Chester Highway (S.C. 9), Tax Parcel No. 0066-00-033.00 ("Project Site");

(5) the Company plans to purchase the Project Site from the County for the sum of \$500,000, for the purpose of undertaking the Project in the County; and

(6) in connection with the Project, the Company has requested the County to enter into one or more agreements, to the extent and subject to the conditions provided in those agreements, to establish the commitments of (i) the Company to make the Investment, create the Jobs and purchase the Project Site, (ii) the County to provide certain special source revenue credits against certain payments in lieu of taxes made in connection with the Project, (iii) the County to sell the Project Site to the Company, and (iv) the County to designate the Project Site as a multi-county park pursuant to the MCP Law.

B. It is the purpose of this ordinance to provide for the approval of the above-referenced requests of the Company.

Section 2. *Additional findings.*

Council finds, based on information provided by the Company, that (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally, (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its 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 to the public are greater than the costs to the public.

Section 3. *Cost-benefit findings.*

Council makes the following findings concerning the costs and benefits of the Project:

(a) the benefits of providing the incentives arrangement set forth in the Infrastructure Credit and Incentive Agreement include (i) investment in real and personal property of at least \$3,100,000, (ii) an average annual increase in property taxes (FILOT payments) of approximately \$37,493 after application of incentives, (iii) construction benefit of \$311,874, (iv) facility operation benefit of \$2,316,761, (v) employee benefit of \$18,637, and (vi) visitor benefit of \$0. The total benefit is estimated at \$2,647,272.

(b) the cost of providing the incentives arrangement is estimated at (i) development costs of \$0, (ii) operational costs of \$601,727, and (iii) employee costs of \$76,703. The total cost is estimated at \$678,430.

(c) the benefit to cost ratio in year one is estimated at \$3.63:\$1.00 and after year one at \$3.18:\$1.00.

(d) the value of the FILOT incentive to the Company is estimated at \$0 and the special source revenue credits at \$601,727 (Credit No. 1 -- \$544,491; Credit No. 2 -- \$57,236).

Section 4. *Economic Development Fund.*

(A) Council finds that (i) by passage of Ordinance No. 2014-1260, Council created an Economic Development Fund with the intent to make monies available to the fund from new revenues to the County derived from new and expanded businesses and industry, and (ii) the ability to make monies available to the Economic Development Fund can be difficult because of complexities and legalities applicable to fee-in-lieu of tax arrangements and multi-county parks.

(B) It is the intent of Council, in the annual County budget, to appropriate monies to the Economic Development Fund based on the new revenue that the County receives pursuant to the Infrastructure Credit and Incentive Agreement. Specifically, it is Council's intent to appropriate from the General Fund of the County an amount based on the following formula: Seven percent (7%) times the amount of money received pursuant to the Infrastructure Credit and Incentive Agreement by the County after distribution to other taxing entities in the most recently completed tax year.

Section 5. *Authority to execute Infrastructure Credit and Incentive Agreement; Approval of sale; Termination of authority.*

(A) The form, terms, and provisions of the Infrastructure Credit and Incentive Agreement, attached hereto as Exhibit A, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Infrastructure Credit and Incentive Agreement was set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the Infrastructure Credit and Incentive Agreement in the name of and on behalf of the County, and thereupon to cause the Infrastructure Credit and Incentive Agreement to be delivered to the Company. The Infrastructure Credit and Incentive Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Infrastructure Credit and Incentive Agreement attached to this ordinance.

(B) Included in the Infrastructure Credit and Incentive Agreement are provisions providing for the sale of the Project Site to the Company for \$500,000. Council authorizes and approves the sale of the Project Site to the Company.

Section 6. *Further acts.*

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are each authorized and directed to do any and all things necessary to effect the execution and delivery of the Infrastructure Credit and Incentive Agreement and the performance of all obligations of the County under and pursuant to the Infrastructure Credit and Incentive Agreement. The authority of the County Administrator includes the authority to execute and delivery a deed for the Project Site, consistent with the terms of the Infrastructure Credit and Incentive Agreement, to the Company.

Section 7. *Severability.*

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section 8. *Controlling provisions.*

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, orders and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 9. *Effective date.*

This ordinance is effective upon third reading.

And it is so ordained, this 9th day of November, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

Attest:

Debbie C. Hardin, Clerk to Council

First Reading:	October 26, 2015	Tentative
Second Reading:	October 29, 2015	Tentative
Council Public Hearing:	November 9, 2015	Tentative
Third Reading:	November 9, 2015	Tentative

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit A to Ordinance No. 2015-1380

**Infrastructure Credit and Incentive Agreement
between
Project Seating and Lancaster County**

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

FOR COUNCIL CONSIDERATION – OCTOBER 26, 2015

INFRASTRUCTURE CREDIT AND INCENTIVE AGREEMENT

BY AND BETWEEN

PROJECT SEATING

AND

LANCASTER COUNTY, SOUTH CAROLINA

NOVEMBER 9, 2015

**PREPARED BY:
PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450
COLUMBIA, SOUTH CAROLINA 29201
(803) 255-8000**

INFRASTRUCTURE CREDIT AND INCENTIVE AGREEMENT

THIS INFRASTRUCTURE CREDIT AND INCENTIVE AGREEMENT ("**Agreement**") is made and entered into as of November 9, 2015 (the "**Agreement Date**"), by and among Lancaster County, South Carolina ("**County**"), a body politic and corporate and a political subdivision of the State of South Carolina ("**State**"), acting by and through the Lancaster County Council ("**County Council**") as the governing body of the County and Project Seating, a South Carolina limited liability company, its affiliated and related entities and assigns ("**Company**") and any other party that may join as a Project Affiliate as that term is defined in this Agreement (hereinafter, the County, the Company, and any Project Affiliate are referred to collectively as "**Parties**," and individually as a "**Party**").

WITNESSETH:

(a) The County, acting by and through its County Council is authorized (i) by Sections 4-1-175 and 4-29-68 of the Code of Laws of South Carolina 1976, as amended (collectively, the "**Infrastructure Credit Act**"), to provide special source revenue credits for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the Project (defined below) and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County; and (ii) by Article VIII, Section 13(D) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code of Laws of South Carolina 1976, as amended (collectively, the "**MCP Law**") to create and expand, in conjunction with one or more other counties, joint county industrial or business parks in order to facilitate the grant of such special source revenue credits;

(b) The Company, along with any Project Affiliate, is planning to complete by December 31, 2018 (the "**Compliance Date**") an investment consisting of the expenditure of not less than \$3,100,000 ("**Minimum Investment Commitment**") and the creation of not less 100 new, full-time jobs ("**Minimum Jobs Commitment**") in connection with the acquisition by construction, lease and purchase of certain land, buildings, furnishings, fixtures, and equipment, for the purpose of locating a manufacturing facility in the County (collectively, "**Project**");

(c) The Investment may consist of investment made by the Company and any Project Affiliate and shall include the price paid by the Company to the County for the purchase of the Project Site, as that term is defined below, and shall also include grant funds received from the State of South Carolina, which funds are expected to total \$150,000;

(d) The County owns the land and building consisting of approximately 15.58 acres located at 3888 Chester Highway (S.C. 9), Tax Parcel No. 0066-00-033.00 ("**Project Site**");

(e) The Company proposes to purchase the Project Site from the County, pursuant to a Purchase and Sale Agreement, to undertake the Project in the County;

(f) The Project, including the Project Site, will be placed in a multi-county industrial park established pursuant to the MCP Law ("**Park Agreement**");

(g) The term Project Affiliate refers to an affiliate that joins with or is an affiliate of the Company who executes and delivers a Joinder Agreement in a form substantially similar to that attached hereto as **Exhibit B**; and whose investment with respect to the Project shall (i) be considered part of the Investment

for purposes of this Agreement and (ii) be qualified to receive the benefits pursuant to this Agreement and the Infrastructure Credit Act; and

(h) The County proposes to provide to the Company, along with any Project Affiliate, and as an incentive to proceed with the Project and the purchase of the Project Site, infrastructure credits as allowed by the Infrastructure Credit Act.

NOW, THEREFORE, IN CONSIDERATION of the respective representations and agreements contained in this Agreement, the Parties agree to the following:

Article I General

Section 1.01. Incorporation. The above recitals are incorporated into this Agreement as if the recitals were set out in this Agreement in its entirety.

Article II Purchase and Sale Agreement

Section 2.01. Definitions. As used in this Article, "Company" means Project Seating, a South Carolina limited liability company, its affiliated and related entities and assigns.

Section 2.02. Sale of Property. County agrees to convey and Company agrees to accept on the terms hereafter stated, the Project Site, together with any and all improvements thereon and appurtenances thereto, as described in the attached **Exhibit A**. At its option, Company shall have the property surveyed prior to Closing and, subject to County's reasonable approval, any updated legal description from the survey may be attached in addition to the existing Exhibit A. Notwithstanding the provisions of this Article II, Company's obligations herein are conditioned upon the Inspection Period, defined below.

Section 2.03. Inspection. Any provision hereof to the contrary notwithstanding, Company shall have until forty-five (45) days after the Agreement Date (the "**Inspection Period**") to perform development studies, financial analyses, feasibility studies, inspections, utility studies, storm drainage analyses, soil tests, surveys, appraisals, environmental studies, title searches, and such other tests, evaluations and examinations of the Project Site as Company may desire. Within ten (10) days after the Agreement Date, County shall provide to Company copies of any and all outstanding written contracts, agreements, permits, letters of intent, surveys, plans, environmental studies conducted by County, license agreements, title insurance policies, easement agreements, restrictive covenants, other title documents and other such documents concerning the Project Site in County's possession. In the event the results of Company's tests, evaluations and analyses are not satisfactory to Company in its sole discretion or if for any other reason Company elects not to purchase the Project Site, Company may on or before the last day of the Inspection Period terminate this Agreement by written notice to County. In such event, this Agreement shall be deemed terminated, and Company shall have no obligation to purchase the Project Site. In the event Company does not terminate this Agreement within said time period, this Agreement shall remain in full force and effect. Company agrees to indemnify and hold harmless the County from all liabilities, claims, damages, liens, costs, and expenses (including reasonable attorneys' fees) in connection with the inspection of the Project Site.

Section 2.04. Title/Purchase Price. At closing, in exchange for payment of the sum of Five Hundred Thousand Dollars (\$500,000.00) (the "**Purchase Price**"), County shall convey to the Company good and marketable fee simple title to the Project Site by limited warranty deed free and clear of all leases, liens, encumbrances (other than easements and rights of way of record as of the Agreement Date) and mortgages.

Company shall cause the title to the Project Site to be examined prior to Closing. Prior to Closing (hereinafter defined), Company shall submit to County notice in writing of any objections to title, including but not limited to any matters shown on any new survey of the Project Site (the "**Title Objections**"). Subject to the terms herein, the County shall have until the Closing to correct, at County's sole cost and expense, the Title Objections. If, at Closing, County has not corrected all the Title Objections to Company's sole and absolute satisfaction, Company shall have the option to accept such title as County delivers at Closing; or to terminate this Agreement, and this Agreement shall automatically become null and void. Title Objections that are not corrected at Closing and over which Company takes title, in addition to matters of title on the Agreement Date as to which Company did not object, shall be referred to as "**Permitted Encumbrances**."

Section 2.05. Closing. Company and County agree that the closing of the purchase and sale of the Project Site ("**Closing**") will be consummated on or before thirty (30) days following expiration of the Inspection Period, on a date to be selected by Company with no less than ten (10) days prior notice to County, in the office of the Company's counsel in Columbia, South Carolina (the "**Closing Date**"). In any event, Company shall have the option to consummate the Closing on a date prior to the expiration of the Inspection Period. At Closing, the County will deliver or cause to be delivered to the Company such additional documents, including any documents required by Company's title insurer and attorney as may be reasonably required by the Company to consummate the sale of the Project Site to the Company. The County will pay the following costs: the County's attorney's fees, and the preparation of the Deed. The Company will pay the following amounts and costs: the Purchase Price via wire transfer to County at Closing in U.S. dollars, the Company's attorney's fees, recording fee to record the deed, transfer fees and documentary stamps applicable to the deed and costs to obtain any inspections, survey and title insurance desired by the Company. At Closing, County shall deliver the following:

- (i) a duly executed and acknowledged limited warranty deed in recordable form conveying fee simple title to the Project Site using the legal descriptions contained in the deeds into the County and subject to County's reasonable approval, also referencing the description set forth on the Company's survey to be recorded;
- (ii) a duly executed lien affidavit satisfactory for the applicable title company to remove the mechanic's lien exception applicable to the County (but not for liens created by the Company) and free of the rights of parties in possession except as allowed under this Agreement;
- (iii) such other documents as the applicable title company may reasonably request to evidence the County's authority to execute and perform under this Agreement and to execute and deliver all documents conveying the Project Site to Company;
- (iv) a certificate given under penalty of perjury and on a form approved under temporary regulations promulgated under Section 1445 of the Internal Revenue Code of 1986, as amended, that County is not a foreign person; and
- (v) possession of the Project Site free of the rights and claims of others subject to the Permitted Encumbrances.

Section 2.06. Possession. Possession of the Project Site will be delivered to the Company on the Closing Date free from leases and parties claiming any rights to possession in or ownership to the Project Site, subject to the Permitted Exceptions.

Section 2.07. Buyer's acknowledgment. COMPANY ACKNOWLEDGES THAT COMPANY IS PURCHASING THE PROJECT SITE FROM THE COUNTY "AS IS" AND, EXCEPT FOR THE WARRANTY IN SECTION 2.08 AND THE LIMITED WARRANTY DEED, WITHOUT WARRANTY

OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE PROJECT SITE, ITS FITNESS FOR ANY PARTICULAR PURPOSE, OR ITS COMPLIANCE WITH ANY LAWS AND REGULATIONS. COMPANY ACKNOWLEDGES THAT DURING THE INSPECTION PERIOD, COMPANY WILL SATISFY ITSELF ON ALL SUCH MATTERS.

Section 2.08. *Environmental matters.* County warrants that, to the actual knowledge of the County's County Administrator, it has no knowledge of any facts with respect to the environmental condition of the Project Site other than as may be referenced in (1) Phase I Environmental Site Assessment dated April 19, 2012 prepared by Summit Engineering and Construction Services, Inc. (Summit Project No. GE-2321-12) (Engineer: Michael D. Zavislak); (2) Preliminary Wetlands Determination Requests and report by Summit Engineering and Construction Services, Inc. dated February 17, 2012; (3) Phase I Environmental Site Assessment dated November 7, 2008 prepared for the County of Lancaster, South Carolina by ARM Environmental Services, Inc. (ARM Project # 07-615-08); and (4) Property Inspection Reports prepared by LESCO Restorations, Inc. dated November 4 and November 5, 2008. County has delivered copies of the foregoing reports to Company and Company acknowledges that County has no ability to give Company any right to rely upon such reports.

Section 2.09. *Assignment of article.* The right to purchase the Project Site, as provided in this Article, may not be assigned by Company without the consent of County which consent shall not be unreasonably withheld. County hereby consents to an assignment of the provisions of this Article to a third-party affiliate of Company, meaning any party that is controlling, controlled by, or under common control with Company.

Section 2.10. *Temporary Right of First Refusal; Performance Requirement.*

(a) *Temporary Right of First Refusal.* Company agrees that the County has the right to reserve in the deed in which the County conveys title to the Project Site to the Company a right of first refusal (the "**Right of First Refusal**") granting the County the right (subject to the Performance Requirement below), but not the obligation, to cause the Company to reconvey the Project Site to the County for the consideration of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) in the event the Company offers to sell the Project Site to any unrelated third party within five (years) from the date of conveyance of the Project Site from the County to the Company.

(b) *Performance Requirement.* In any event, the Right of First Refusal shall terminate immediately upon the Company's completion of the Performance Requirement. As used in this Section, "**Performance Requirement**" means the expenditure of not less than \$1,000,000 (including the amount of \$500,000 paid as the Purchase Price) for improvements to the Project Site as evidenced by documents including, but not limited to, proof of payment to contractors and suppliers and binding written contracts for the construction or installation of improvements. At any time after the Company has completed the Performance Requirement, the County agrees to execute, within ten (10) business days after requested by the Company, a recordable document acknowledging termination of the Right of First Refusal.

Section 2.11. *Survival.* The covenants and warranties contained in this Article II shall survive the Closing of the Project Site.

Section 2.12. *Termination.* If the Company does not terminate this Agreement during the Inspection Period and Company fails to Close by the Closing Date, then, unless extended by written agreement of the parties, this Agreement shall terminate.

Article III Infrastructure Credits

Section 3.01. *Multi-county park status; Payments in lieu of tax.*

(a) *Multi-county park status.* County agrees to include the Project Site in a multi-county park established pursuant to the MCP Law for the period beginning not later than when the Company receives title to the Project Site and ending not sooner than the date this Agreement is terminated. Company acknowledges and agrees that County's obligation to include the Project Site in a multi-county park is subject to the approval of, and the exercise of discretion by, a governmental entity other than the County and the approval, and exercise of discretion, by the other governmental entity is not controlled by the County.

(b) *Fee payments.* Company agrees that, by virtue of the inclusion of the Project Site in a multi-county park and the exemption from all *ad valorem* taxation for real and personal property having a *situs* in the multi-county park, it shall make annual payments in lieu of taxes to the County in the total amount equivalent to the *ad valorem* property taxes or other fee-in-lieu-of-taxes that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within the multi-county park (each, a "**Fee Payment**"). The Company agrees that the Fee Payments are to be made annually and are to be collected and enforced as provided in Section 12-2-90 of the Code of Laws of South Carolina 1976, as amended.

Section 3.02. *Infrastructure Credits.*

(a) *Infrastructure Credit #1.* Subject to the provisions herein, the County grants an annual infrastructure credit ("**Infrastructure Credit #1**") for a period of twenty (20) years ("**Credit Period #1**") to the Company and any Project Affiliate against each Fee Payment in an amount that would allow the Company's remaining fee payments, after deduction of Infrastructure Credit #1 but before deduction of Infrastructure Credit #2, to be equivalent to an amount calculated using a 6% assessment ratio and a millage rate of 301.1. Infrastructure Credit #1 shall apply to the annual Fee Payments due with respect to the Project in connection with investments made during the remainder of the 2015 calendar year, and in service as of December 31, 2015, and for each year thereafter through December 31, 2020 ("**Investment Period**"). Credit Period #1 shall commence in the first property tax year for which any Fee Payment becomes due. The Parties anticipate that the first year of Credit Period #1 will begin in property tax year 2016 (*i.e.*, since the Fee Payment for investments made in 2015 will be invoiced to the Company and any of the Project Affiliate(s) in property tax year 2016 and payable on January 15, 2017) and that the last year of Credit Period #1 will be the property tax year in which the last Fee Payment against which any Infrastructure Credit is applied, anticipated to be property tax year 2035, as extended.

(b) *Infrastructure Credit #2.* In addition to Infrastructure Credit #1, the County grants an annual infrastructure credit ("**Infrastructure Credit #2**") to the Company and any Project Affiliate against each annual Fee Payment in an amount equal to 25% of the remaining fee payment liability, after deduction of Infrastructure Credit #1, each year for a period of five (5) years ("**Credit Period #2**"). Infrastructure Credit #2 shall apply to the Fee Payments due with respect to the Project beginning with Fee Payments due January 15, 2017 and for each year thereafter through Fee Payments due January 15, 2021.

(c) *Application of Infrastructure Credits.* Any infrastructure credit provided under this Agreement shall be used to reimburse the Company and any Project Affiliate for eligible expenditures, as permitted by the Infrastructure Credit Act, which includes the cost of designing, acquiring, constructing,

improving, or expanding the infrastructure serving the Company's property, for improved or unimproved real estate or for machinery and equipment ("**Eligible Expenditures**"). The infrastructure credit benefits shall be first deemed to be applied to the Eligible Expenditures of the Company, with any remaining infrastructure credit benefit to be applied to the Eligible Expenditures of the Project Affiliate, the allocation of which shall be determined in the sole discretion of the Company. The Company, and each Project Affiliate, agree that, as of any date during the term of this Agreement, the cumulative dollar amount expended by the Company on Eligible Expenditures shall equal or exceed the cumulative dollar amount of Infrastructure Credits #1 and #2 received by the Company and any Project Affiliate.

(d) Payment of Eligible Expenditures. The Company, and any Project Affiliate, agrees to pay for, or cause to be paid, all costs of the Eligible Expenditures as and when due.

(e) Clawbacks; Termination.

(1) If either or both of the Minimum Investment Commitment and the Minimum Jobs Commitments are not satisfied by the Compliance Date, then this Agreement is terminated and neither the Company nor any Project Affiliate is eligible for Investment Credit #1 or Investment Credit #2. Upon such termination, all Fee Payments shall revert retroactively to payments calculated without regard to Investment Credit #1 or Investment Credit #2 (but with regard to any applicable property tax exemptions), and a deficiency payment from each such owing entity shall be due and payable with respect to the Fee Payments theretofore made. The amount of such deficiency payment is the difference between the amount paid by the Company and Project Affiliate as Fee Payments each year as adjusted for Investment Credit #1 and Investment Credit #2 and the amount the Fee Payments would have been without adjustment for Investment Credit #1 or Investment Credit #2. Deficiency payments due to the County from either the Company or a Project Affiliate under this subsection (e)(1) shall be paid within ninety (90) days following receipt by the entity of notice from the County that a deficiency payment is due and the amount due shall be collected and enforced in accordance with Section 12-2-90 of the Code of Laws of South Carolina 1976, as amended. The Company and Project Affiliate each agree that under no circumstance shall the County be required to refund or pay any monies to the Company or Project Affiliate pursuant to this subsection (e)(1).

(2) If both the Minimum Investment Commitment and the Minimum Jobs Commitment are satisfied by the Compliance Date, but following the Compliance Date, the number of new, full-time jobs falls below fifty (50), then this Agreement is terminated and the Project shall prospectively be subject to Fee Payments calculated without Investment Credit #1 or Investment Credit #2, beginning with the Fee Payments due with respect to the Project property as of the end of the property tax year in which such short fall occurs.

(3) Notwithstanding any other provision of this Agreement, the Company acknowledges and agrees that County's obligation to provide Investment Credit #1 and Investment Credit #2 ends, and this Agreement shall terminate prospectively beginning with the Fee Payments due with respect to the Project property as of the end of the property tax year in which the Company or Project Affiliate closes or otherwise ceases operations in the County for a period of at least forty-five (45) consecutive days. The provisions of this subsection (e) relating to deficiency payments apply if this Agreement is terminated in accordance with this subsection (e)(3) prior to the requirements in subsection (e)(1) being satisfied.

(f) Annual Certifications. Each year, the Company shall be deliver to the County, the County Auditor, the County Assessor, and the County Treasurer, a completed Credit Certification Form (attached to this Agreement as **Exhibit C** and incorporated herein as if it were set out in this Agreement in its

entirety) on or before May 31 following the year for which the Credit Certification Form applies, with the first Credit Certification Form being due on or before May 31, 2016, in accordance with the instructions set forth therein. If the Company fails to submit the Credit Certification Form by May 31 of the applicable year, then the Company agrees that it forfeits Infrastructure Credit #1 and Infrastructure Credit #2 for the then current year.

Section 3.03. *Annual filings.* Each year during the term of this Agreement, the Company shall deliver to the County, the County Auditor, the County Assessor, and the County Treasurer, a copy of its most recent annual filings with the South Carolina Department of Revenue (the "SCDOR") with respect to the Project, not later than 30 days following delivery thereof to the SCDOR.

Section 3.04. *Reliance on SCDOR filings and other Evidence.* For purposes of determining the amount expended on Eligible Expenditures and for determining whether the Company has met or exceeded the Minimum Investment Commitment, the County and Company agree that the County may rely on either (1) the gross costs of property reported by the Company on its most recently filed PT-300 series form (or comparable SCDOR form) or (2) other supporting documentation of amounts expended on Eligible Expenditures as equivalent to the cumulative dollar amount expended by the Company on the applicable item.

Section 3.05. *Addition of Project Affiliates.* Any Project Affiliate may join as a Party to this Agreement, without the approval of County Council, provided that it agrees to be bound by the terms of that Joinder Agreement attached as Exhibit B, a fully executed copy of which will be delivered to the County.

Section 3.06. *Right to inspect; Confidential information.*

(a) ***Right to inspect.*** The Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all of the Company's books and records pertaining to the Project. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by the Company to protect the Company's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project shall be at the County's expense.

(b) ***Confidential information.*** The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Company's operations and processes ("**Confidential Information**") and that any disclosure of the Confidential Information could result in substantial harm to the Company and could have a significant detrimental impact on the Company's employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Company, its agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any person or entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Company and give the Company the opportunity to contest the release.

Article IV
Miscellaneous

Section 4.01. *Administrative expenses.*

(a) *Administrative expenses.* The Company agrees to reimburse the County from time to time for its Administrative Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administrative Expenses. As used in this section, “**Administrative Expenses**” means the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Agreement, (ii) the preparation, review, approval and execution of other documents related to this Agreement and any multi-county park documents; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof. Administrative Expenses does not include the costs that County is to pay pursuant to Section 2.05 of Article II. The Company and the County agree that the Administrative Expenses are not intended to exceed \$4,000 in the aggregate.

(b) *Expense of experts.* The Company agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual Fee Payments and Infrastructure Credit #1 and Infrastructure Credit #2, provided, however, the maximum annual reimbursement pursuant to this subsection is capped at one thousand dollars (\$1,000.00).

Section 4.02. *Notices.* Any notice, election, demand, request or other communication to be provided under this Agreement shall be effective when delivered to the party named below or three business days after deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: County of Lancaster, South Carolina
 ATTN: Steve Willis, County Administrator
 101 N. Main St. (29720)
 PO Box 1809 (29721-1809)
 Lancaster, South Carolina
 Telephone: (803) 416 - 9300
 Fax: (803) 285 - 3361
 Email: swillis@lancastercountysc.net

WITH A COPY TO: John Weaver
(which shall not County Attorney, Lancaster County
constitute notice) 101 N. Main St. (29720)
 PO Box 1809 (29721-1809)
 Lancaster, South Carolina
 Telephone: (803) 416 - 9426
 Fax: (803) 285 - 3361
 Email: jweaver@lancastercountysc.net

AS TO THE COMPANY: Project Seating
 ATTN: Albert Chen, General Manager
 3888 Chester Highway
 Lancaster, South Carolina 29720
 Telephone: (866) 267-7772
 Fax: (909) 627-4759
 Email: [ADDRESS]

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
(which shall not ATTN: Ray Jones, Esquire
constitute notice) 1201 Main Street, Suite 1450
 Columbia, South Carolina 29201
 Telephone: (803) 255-8000
 Facsimile: (803) 255-8017
 Email: rayjones@parkerpoe.com

Section 4.03. *Binding effect.* This Agreement is binding, in accordance with its terms, upon and inures to the benefit of the Company and its respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Agreement shall bind and inure to the benefit of the successors of the County, but only to the extent provided by law applicable to the dissolution, consolidation or transfer to any other political subdivision.

Section 4.04. *Counterparts.* The Parties may execute this Agreement in any number of counterparts, in original or by facsimile or electronic means, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 4.05. *Governing law.* This Agreement and all documents executed in connection with this Agreement are construed in accordance with and governed by the laws of the State. To the extent of any conflict between the provisions of this Agreement and the Infrastructure Credit Act, the Infrastructure Credit Act controls.

Section 4.06. *Amendments.* The Parties may modify or amend this Agreement only in a writing signed by the Parties.

Section 4.07. *Waiver.* A Party to this Agreement may waive compliance by any other Party with any term or condition of this Agreement. To be effective, the waiver must be in a writing signed by the waiving party.

Section 4.08. *Entire understanding.* This Agreement expresses the entire understanding and all agreements of the parties hereto with each other with respect to its subject matter, and neither party hereto has made or shall be bound by any agreement or any representation to any other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 4.09. *Further assurance.* 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 MCP Law, the Infrastructure Credit Act, and this Agreement, to effectuate the purposes of this Agreement.

Section 4.10. Severability. If any provision of this Agreement is illegal, invalid or unenforceable for any reason, the remaining provisions remain unimpaired and any illegal, invalid or unenforceable provision are reformed to effectuate most closely the legal, valid and enforceable intent and to afford the Company with the maximum benefits to be derived under this Agreement and the Infrastructure Credit Act, it being the intention of the County to offer the Company the strongest inducement possible to encourage the Investment and the creation of Jobs for or in the Project.

Section 4.11. Assignment. This Agreement may be assigned in whole or in part. To the extent any further consent is required by the Infrastructure Credit Act and requested, the County may grant such consent by adoption of a resolution.

Section 4.12. Limited Obligation. THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FROM THE COMPANY FOR THE PROJECT PURSUANT TO THE MCP LAW, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE INFRASTRUCTURE CREDITS.

Section 4.13. Force Majeure. The Company is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Company's reasonable control. *Provided, however,* the provisions of this section shall in no way relieve the Company from the provisions contained in Section 3.03(e) of Article III of this Agreement.

Section 4.14. State Grants. With respect to state grants offered by the State of South Carolina ("State Grants"), the County agrees to administer the State Grants and to, in good faith, assist the Company in its efforts to qualify and receive the benefits of the State Grants.

Section 4.15. Survival. Unless otherwise provided in this Agreement, the provisions of this Agreement intended to survive its termination shall survive. Provisions that are intended to survive the termination of this Agreement, include, but are not limited to, the Company's obligations to make deficiency payments, Fee Payments, and to indemnify the County.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]
[SIGNATURES PAGES FOLLOW]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Agreement to be executed in its name and on its behalf by the Council Chair and Council Secretary, to be attested by the Clerk to Council as of the Agreement Date.

LANCASTER COUNTY, SOUTH CAROLINA

Bob Bundy, Chair, County Council

Steve Harper, Secretary, County Council

(SEAL)
ATTEST:

Debbie C. Hardin, Clerk to Council

[COMPANY SIGNATURES FOLLOW ON NEXT PAGE.]

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed in its name and on its behalf by its authorized officer as of the Agreement Date.

PROJECT SEATING

By: _____

Its: _____

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Exhibit A to the Infrastructure Credit and Incentive Agreement

Description of Project Site

Approximately 15.58 acres located at 3888 Chester Highway (S.C. 9), Tax Parcel No. 0066-00-033.00.

LEGAL DESCRIPTION FROM DEED RECORDED IN BOOK 671 AT PAGES 267-272:

ALL THAT CERTAIN piece, parcel or tract of land situated in the County of Lancaster, South Carolina lying on the north margin right of way of South Carolina Highway 9 and being more particularly bounded and described as follows:

BEGINNING at an existing number five rebar located on the north margin right of way of South Carolina Highway 9 and being the southeast most corner of Tract No. 3 and the common corner of Tract No. 3 and Tract No. 2 as shown in Plat Book 2003 at page number 349, said point being **N59°47'42"E 271.73'** from National Geodetic Survey benchmark monument "29 021" (PID: AA4143) having South Carolina State Plane NAD83 (CORS96) EPOCH 2002.0000 Grid Coordinates of **1049514.02' ifeet NORTH** and **2046100.29' ifeet EAST**; thence along and with the common boundary of Tract No. 3 and Tract No. 2 **N28°53'10"W 600.05'** to an existing number five rebar; said point being the northeast most corner of Tract No. 3 and the common corner of Tract No. 3 and Tract No. 2; thence along and with the common boundary of Tract No. 3 and Tract No. 2 **S61°05'09"W 550.28'** to an existing number five rebar; said point being the northwest most corner of Tract No. 3 and the common corner of Tract No. 3 and Tract No. 2; thence with a newly created boundary line **N28°54'45"W 131.09'** to a new corner being a number five rebar set; thence with a newly created boundary line **N61°05'09"E 871.64'** to a new corner being a number five rebar set in the common boundary of Tract No. 2 and the Gibson Limited Partnership lands; said point being **S37°41'10"E 702.00'** from an existing 2" angle iron being the northeast most corner of Tract No. 2; thence along and with the common boundary of Tract No. 2 and the Gibson Limited Partnership lands **S37°41'10"E 740.04'** to an existing number five rebar located on the north margin right of way of South Carolina Highway 9; said point being the southeast most corner of Tract No. 2 and the common corner of Tract No. 2 and the Gibson Limited Partnership lands; thence along and with the north margin right of way of South Carolina Highway 9 **S61°07'05"W 434.51'** to the **POINT OF BEGINNING** and containing **8.000 ACRES** and being the property shown on map of "PLAT OF BOUNDARY SURVEY FOR COUNTY OF LANCASTER, SOUTH CAROLINA", file "LYBCAACA" dated February 3rd 2012 as surveyed by Enfinger & Associates Professional Land Surveyors, recorded in the Office of the Register of Deeds for Lancaster County in Plat Book 2012 at page 225.

Derivation: This being the same property conveyed to Lancaster County, South Carolina by deed of Nichols Road Farming and Real Estate Investments, LLC dated June 7, 2012, and recorded with the Register of Deeds for Lancaster County on June 7, 2012 in Book 671 at page 267.

LEGAL DESCRIPTION FROM DEED RECORDED IN BOOK 493 AT PAGES 222-225:

All that certain piece, parcel or lot of land, together with the improvements thereon, lying and being situate on the northern side of S.C. Highway 9 in or near the City of Lancaster, Cane Creek Township, Lancaster County, South Carolina, containing 7.58 acres, more or less, designated as Parcel 3 on that certain "Boundary Survey for Springs Industries, Inc." dated April 14, 2003, prepared by James W. Capps, P.L.S. Registration # 14805, recorded on May 28, 2003, as Plat #2003-349, Office of the Clerk of Court for Lancaster County, South Carolina, to which plat reference is hereby made for a more particular description of the said 7.58 acre parcel.

Derivation: This being the same property conveyed to Lancaster County, South Carolina by deed of Springs Global US, Inc. dated November 18, 2008, and recorded with the Register of Deeds for Lancaster County on November 18, 2008 in Book 493 at page 222.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

EXHIBIT B to the Infrastructure Credit and Incentive Agreement

JOINDER AGREEMENT

Reference is hereby made to that certain Infrastructure Credit and Incentive Agreement, dated [DATE] (“Infrastructure Credit Agreement”), between Lancaster County, South Carolina (“County”) and Project Seating (the “Company”).

1. Joinder to Infrastructure Credit and Incentive Agreement.

The undersigned hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Infrastructure Credit Agreement except the provisions of Article II; (b) acknowledges and agrees that (i) in accordance with the Infrastructure Credit Agreement, the undersigned has been designated as a Project Affiliate by the Company for purposes of the Project; and (ii) the undersigned shall have all of the rights and obligations of a Project Affiliate as set forth in the Infrastructure Credit Agreement, unless otherwise set forth herein. The Project Affiliate agrees that it is bound by this Joinder Agreement to make Fee Payments pursuant to the Infrastructure Credit Agreement and that the provisions of Section 3.02(e) of Article III of the Infrastructure Credit Agreement apply if the Minimum Investment Commitment and the Minimum Jobs Commitment are not satisfied by the Compliance Date.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Infrastructure Credit Agreement.

3. Governing Law.

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of choice of law.

4. Notice.

Notices required to be sent to the Project Affiliate of the Infrastructure Credit Agreement shall be sent to:

[INSERT PROJECT AFFILIATE’S ADDRESS]

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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:	_____		
Name:	_____		
Its:	_____		
Address:	_____		

IN WITNESS WHEREOF, the Company consents to the addition of the above-named entity becoming a Project Affiliate under the Infrastructure Credit Agreement effective as of the date set forth above.

By:	_____
Name:	_____
Its:	_____
Date:	_____
Address:	_____

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

EXHIBIT C to the Infrastructure Credit and Incentive Agreement

Credit Certification Form

Infrastructure Credit

Reference is made to the Infrastructure Credit Agreement, dated as of [DATE] ("Agreement"), by and among Lancaster County, South Carolina ("County") and Project Seating ("Company"). Each capitalized term not defined in this Credit Certification Form ("Certification") has the meaning contained in the Agreement.

According to the Agreement, the undersigned authorized agent of the Company certifies:

1. The Company has satisfied the requirements to qualify for Infrastructure Credit #1 or Infrastructure Credit #2, or both, property tax year ____.
2. The Company is entitled to claim Infrastructure Credit #1 or Infrastructure Credit #2, or both.
3. Infrastructure Credit #1 or Infrastructure Credit #2, or both, specified in this Certification for the current property tax year, together with the amount of all infrastructure credits previously claimed pursuant to the Agreement, do not, in the aggregate, exceed the total cost of all infrastructure improvements funded by the Company and all Project Affiliates, for which an infrastructure credit is permitted under state law.

IN WITNESS WHEREOF, I have executed this Certification as of _____, 20__.

PROJECT SEATING, LLC,
a South Carolina limited liability company

By: _____

Name: _____

Its: _____

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Agenda Item Summary

Action Item Requiring Decision.

Sponsor: John Weaver

Department: County Attorney

Date Requested to be on Agenda: October 26, 2015

Committee: Administration Committee

Issue for Consideration: Whether or not it is necessary and appropriate for Council as a whole to pursue the issue of Pulte's decision not to build in Sun City Carolina Lakes the minimum number of town houses and condominiums agreed to in PDD-18 and approved in Ordinance 631, passed August 2, 2004.

Points to Consider: This issue comes to Council based upon ongoing inquiries by interested and concerned citizens and residents of Sun City. Attached for Council's review and consideration are the following:

1. August 18, 2015 email from Mr. Wilson;
2. Ordinance 631 and relevant portions of PDD-18, 2. The Master Plan;
3. August 25, 2015 email from the developer's counsel.

Funding and Liability Factors: N/A

Council Options:

1. Take no action and allow completion of Sun City Carolina Lakes development according to the developer's present plan;
2. Initiate litigation for a claim for damages (taxes, etc.) incurred prospectively by the county because of Pulte's failure to comply with the PDD-18 requirements;
3. Amend ordinance 631 to decrease the number of townhouses and condominiums consistent with the actual number of units constructed.

Committee Recommendation: The Administration has recommended that if Council deems it appropriate to take any action that Option 3 be the appropriate course.

John Weaver

From: Waylon Wilson <wilson4323@comporium.net>
Sent: Tuesday, August 18, 2015 2:07 PM
To: John Weaver
Cc: Larry McCullough; Larry Honeycutt; Charlene McGriff; Bob Bundy; Steve Harper; jackestrige@yahoo.com; Brian Carnes; Waylon Wilson
Subject: Violations of Ordinance 631

Mr. Weaver - Lancaster County Attorney

I appreciate your speaking with me regarding my formal complaint of violations of Ordinance 631 submitted on February 12, 2015. We talked following the adjournment of the August 11, 2015 Infrastructure and Regulation Committee meeting. I have to assume that the County Manger concurs with your statements that a lawsuit would likely follow if Lancaster County pursued these violations and that Lancaster County would gain very little regardless of the results.

The developer requested relief from the stated obligations in the Ordinance to build 400 townhomes and 200 condominiums. The developer stated this relief was needed because the "units" would not sell, but would not substantiate their claims with documentation or proof to the Planning Commission.

Items within Ordinance 631 are: "1,215.53 development acres – A minimum for sale units consisting of 400 townhomes and 200 condominiums – Maximum development intensity of 3 dwelling units per acre". According to Lancaster County records, only a total of 273 townhome units and 78 condo units are to be built in Sun City Carolina Lakes.

The actions of the developer will have negative repercussions on Lancaster County as well as the homeowners of SCCL such as; reduced monies for the fire and emergency tax district, fewer household payments to retire development bonds, reduced monies for building permits, less population to consume community's goods and services, etc.

I want to restate that I would never expect or require anyone to construct something that will not sell. I can also appreciate what appears to be the County's position. However, County Council must amend the governing Ordinances to eliminate or adjust the numbers of townhome and condominium units. Several other items and areas should be evaluated or negotiated with the developer if the Ordinance requirements are not going to be implemented. A few estimated expectations from these reduced numbers are:

1) The county losing future property taxes on 249 residential units every year. For the sake of argument; say \$1,000 X 249 units = \$249,000 lost taxes in a year or \$1,245,000 in 5 years.

2) The County's Fire and Emergency Service is losing \$90.00 on 249 residential units every year. That's \$90.00 X 249 units = \$22,410 lost to Lancaster County Services or \$112,050 in 5 years.

3) The Sun City Carolina Lakes Improvement District residences are losing \$382.55 to pay for the bonds on 249 residential units every year. \$382.55 X 249 units = \$95,254.95 or \$476,274.75 in 5 years.

Some suggested approaches could be:

A) Negotiate with the Developer to pay a lump sum dollar amount to offset some or all of the three items listed above.

B) Negotiate with the Developer a specified number of years to pay the yearly amounts to offset some or all of the three items listed above.

C) Negotiate with the Developer a specified number of years or lump sum to pay the yearly bond payments for the multifamily units that are not built. Council needs to be fair to their citizens.

Plebe contact me if you have questions or require additional information. Thank you for your time and efforts and I am looking forward to the resolution of this matter.

Regards,
Waylon Wilson
15117 Legend Oaks Court

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

ORDINANCE #631

AN ORDINANCE AMENDING THE LANCASTER COUNTY ZONING MAP
BY REZONING PROPERTY LOCATED
WEST OF U.S. HIGHWAY 521-18
FROM R-30 TO PDD-18

WHEREAS, Pulte Homes and Del Webb applied to rezone approximately 1,215.53 acres of primarily vacant land located west of U.S. Highway 521 and south of River Road from R-30 to PDD-18; and

WHEREAS, the applicant requests to rezone the property with the intent of developing a mixed use active adult retirement community with single family detached homes, townhomes and condominiums for sale. The community shall also include a public golf course and between 25 and 60 acres of commercial development including retail, restaurant and/or support services for the residents of the community.

WHEREAS, the Joint Planning Commission recommended approval of the rezoning request by a vote of 9-2.


NOW, THEREFORE, BE IT ORDAINED by the Lancaster County Council that approximately 1,215.53 acres of primarily vacant land located west of U.S. Highway 521 and south of River Road shall be rezoned from R-30, Low Density Residential District to Sun City Carolina Lakes Planned Development District, PDD-18.

AND BE IT FURTHER ORDAINED that the Sun City Carolina Lakes Planned Development District, PDD-18, shall hereby be created as per the attached Development Regulations.

AND IT IS SO ORDAINED this 2nd day of August, 2004.

LANCASTER COUNTY COUNCIL


Rudy L. Carter, Chairman


Maxy L. Hammond, Secretary

Approved as to form and content:


William R. Sims, County Attorney

Attest:


Irene Plyler, Clerk to Council

1st reading: 6/28/2004

2nd reading: 7/12/2004

3rd reading: 8/02/2004

2219944.14
LIB: CH

STATE OF SOUTH CAROLINA

Sun City Carolina Lakes Planned
Development District, PDD-18
Ordinance #631

COUNTY OF LANCASTER

1. PURPOSE, AUTHORITY & JURISDICTION

1.1 Purpose

The purpose of the Sun City Carolina Lakes Development Ordinance ("Ordinance") is to establish certain specific land use controls over the development of the Property to ensure that it is developed in accordance with existing and future needs and to promote the health, safety, and general welfare of the future residents. At the same time, the intent of this Ordinance is to provide the flexibility needed to develop the Property in response to ever changing market conditions and to permit the use of evolving innovative development techniques for the protection of the natural environment and the quality of life of future residents.

1.2 Authority

Sections of the South Carolina Local Government Code ("Code") and Lancaster County's Ordinances provide the legal authority for the County and a property owner to enter into an agreement that (i) governs the creation, development, and existence of certain property, and (ii) establishes the rights and obligations of the property owner and the County with respect to the development of the property. Additionally, legal authority for such an agreement is derived from common law. The Code and the ordinances also provide the legal authority for the creation, adoption and enforcement of this Development Ordinance.

1.3 Jurisdiction

This Ordinance shall govern development of the Sun City Carolina Lakes property ("Property") identified on the Master Plan for Sun City Carolina Lakes attached hereto, which consists of approximately 1,215.53 acres more or less. Sun City Carolina Lakes may be expanded with additional properties.

2. THE MASTER PLAN

The Master Plan proposes a residential community with an overall gross density of up to three dwelling units per acre. The community will be a mixed use master planned age-restricted, active adult community. The community shall include single family detached homes, townhomes or condominiums for sale, a public golf course, and between 25 and 60 acres of commercial development including but not limited to retail, restaurant commercial and/or support services for the residents of the community. The residential components may utilize a variety of lot sizes and configurations and varying densities within the separate development tracts as long as the overall maximum gross density is maintained. A minimum of 400 townhomes for sale and 200 condominiums for sale shall be located throughout the community. The village shall also include a mixture of commercial, retail, office, civic and/or institutional uses within Tract A, the area of the Site located just to the west of Highway 521. The amount of commercial, retail, office, civic, and/or institutional development within Tract

John Weaver

From: Joshua Vann <Joshua.Vann@mortongettys.com>
Sent: Tuesday, August 25, 2015 11:39 AM
To: John Weaver
Cc: Brett Manery; Cisco Garcia
Subject: Sun City Condos

John,
There evidently were another 18 single family homes constructed as a result of the condominiums not being built. The 2005 master plan was conceptual, and the condominiums were never designed, so it's difficult to pinpoint exactly where these 18 houses are, but there were 18 more built than planned since the condos weren't built. Thanks,

Joshua B. Vann, Partner
MORTON & GETTYS
Fountain Park Place
331 E Main St Suite 300
PO Box 707
Rock Hill, SC 29731

Direct Tel: 803.366.3341
Fax: 803.324.3768
Web: www.mortongettys.com

A Limited Liability Company

MORTON & GETTYS
ATTORNEYS AT LAW

The information contained in this e-mail is intended solely for the addressee. Information contained in this message may be privileged, and should not be relied on by parties other than the addressee. If you receive this message in error, disregard its content, delete it, and then please notify the sender via e-mail or the phone number referenced above. **INTERCEPTING ELECTRONIC MESSAGES MAY BE AGAINST SOUTH CAROLINA AND FEDERAL LAW.**

CIRCULAR 230 DISCLOSURE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, UNLESS SPECIFICALLY INDICATED OTHERWISE, ANY TAX ADVICE CONTAINED IN THIS COMMUNICATION (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF AVOIDING TAX RELATED PENALTIES OR PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TAX RELATED MATTER ADDRESSED HEREIN.

February 12, 2015

Mr. Kenneth Cauthen
Zoning Director - Lancaster County
Room 158 – County Administration Building
109 North Main Street
Lancaster, South Carolina 29720

Dear Sir,

It is now evident that the developer of Sun City Carolina Lakes (SCCL) is not planning to build the required numbers of townhomes and condominiums that are stated within the Ordinances that govern the development of Plan Development District-18 (PDD-18). Even with the additional "Turkey Point" property added to PDD-18, the required numbers of townhomes and condominiums will not be met.

Therefore, this complaint of violation is being directed to you because the Unified Development Ordinances (UDO) and the SCCL Ordinances in question charge the administration and enforcement of the provisions of these Ordinances to the Building and Zoning Department. As information, below is an extract from the UDO;

"Section 7.1.1 - Building and zoning department.

The building and zoning department is hereby given the authority to administer and enforce all of the provisions of this ordinance pertaining to zoning as defined in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994. The building and zoning department shall accept and examine all applications for construction, land use or reuse, and shall issue building, zoning, and sign permits where such applications are in accordance with the provisions of this ordinance and applicable building codes. The building and zoning department shall provide direction to parties in conflict with this ordinance, be required to keep records and files of any and all matters referred to it, and shall prepare any and all reports as county council may require.

If the building and zoning department shall find that any one of the provisions of this ordinance is being violated, the building and zoning department shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The building and zoning department shall order the discontinuation of the illegal use of land, buildings, or other structures; the removal of illegal buildings or other structures; the discontinuation of work on any illegal additions, alterations, or other structural changes; and shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Section 7.2 - Complaints regarding violations.

Whenever the building and zoning department receives a written and signed complaint, or observes a violation of this ordinance, it shall take whatever action is warranted.

Written and signed complaints received by the building and zoning department shall be confidential. However, such complaints may be made available to the property owner against whom the complaint was filed upon written request after a determination by the building and zoning department that the complaint was without merit."

The actions of the developer will have negative aspects to Lancaster County as well as the homeowners of SCCL such as; reduced monies for the fire and emergency tax district, fewer household payments to retire development bonds, reduced monies for building permits, less population to consume community's goods and services, etc.

Thank you for your consideration, time and actions in this matter.

Regard,

Date

Waylon Wilson
15117 Legend Oaks Court
Indian Land / Fort Mill
South Carolina 29707

Agenda Item Summary

Ordinance # / Resolution#: Discussion/ Action Item
Contact Person / Sponsor: Steve Willis/ Penelope Karagounis
Department: Admin/ Planning
Date Requested to be on Agenda: October 26, 2015

Issue for Consideration:

Discussion of Impact Fee study. This is not a decision on actually charging fees.

Points to Consider:

This is coming back for Council consideration as directed by Council. Areas under consideration for an Impact Fee include, Library, Parks and Recreation, and Governmental Services (primarily but not limited to Public Safety). Transportation is not an area for consideration. Library and Parks and Recreation fees would be charged only to new residential structures.

Governmental Services would be charged to both residential structures and non-residential structures. The percentage would have to be determined by the study but it would not be surprising to see a result with an 80% charge to residential and a 20% charge to non-residential. The exact amount of each fee would have to be determined by the study. That said, County Council controls completely the end amount to be charged. This is because Council controls what percentage of each fee will be charged. It can be the whole fee (100%), some percentage of the fee, or even none (0%) of each fee.

The study would be geographically restricted to the panhandle area and the funds would have to be spent to benefit that area, as opposed to countywide. The question has been raised about continued use of Development Agreements. While it is possible, it is not recommended. I would note that Council does not have the authority to demand a Development Agreement from a developer. There must be some quid pro quo, such as a rezoning, to enter contractual negotiations.

County Council asked for copy of the Fort Mill Impact Fee ordinance. The ordinance is attached but you can find their impact fee study, housing affordability analysis, and CIP at the following link:

http://fortmillsc.gov/index.asp?SEC=%7bB20ED6B5-93A6-4D5E-A68C-27F863B708A2%7d&Type=B_BASIC&persistdesign=none

Funding and Liability Factors:

The scope of work has grown since the original proposal, as shown on the attachment. The full proposal will require additional funding.

Council Options:

To determine proceeding or not proceeding with the Impact Fee study and to determine the expanded scope of services by the Council of Governments. This is a maximum fee, not a set fee. The COG only charges actual expenses. This is not the time to decide on actually charging Impact Fees.

Staff Recommendation:

Proceed with the Impact Fee study and minimize costs where possible.

Committee Recommendation:

N/A – coming from Planning Session.



MEMORANDUM

TO: Lancaster County Council
FROM: Robby Moody, AICP, Senior Planner
DATE: October 19, 2015
SUBJECT: Impact Fee Study for Indian Land

The attached fee estimate includes three variations based on feedback at previous County Council meetings about my agency providing additional assistance beyond the initial proposal which covers preparation of the Impact Fee Study for Indian Land for a fee of \$12,480.

At the July 27 County Council meeting, additional staff support from Catawba Regional was requested to include holding various public meetings to gain input from residents and businesses in Indian Land. This updated scope resulted in an increase to a total of \$14,080.

At the September 14 County Council meeting, I was asked to assist the County Attorney with drafting the impact fee ordinance and developing a process for collecting the fee which includes training key County staff. This new expanded scope resulted in an increased fee estimate of \$23,680.

Please remember that doing this study does not obligate the County Council to pass an ordinance or implement its recommendations, but it can help you make more informed decisions regarding the cost of capital projects (buildings, vehicles, etc.) in the Indian Land area.

Another point to consider is that you are currently paying to meet the demand for services (buildings, vehicles and personnel) for the subdivisions and commercial areas that are here through annual budget expenditures—which are spread over the entire tax base. Whatever the impact/cost of future growth, the costs will be paid in the same manner—unless an alternate funding source is used (such as an impact fee) for the big-ticket capital projects.

Attachment

cc: Steve Willis, County Administrator

Serving Chester, Lancaster, Union & York Counties

215 Hampton Street • P.O. Box 450 • Rock Hill, SC 29731
803.327.9041 • 803.327.1912 (fax) • crcog@catawbacog.org

Lancaster County Impact Fee Study

Fee Estimate

	ORIGINAL SCOPE		UPDATED SCOPE		EXPANDED SCOPE	
	HR	Cost	HR	Cost	HR	Cost
Phase I Research & Public Outreach						
1.1 Planning Commission resolution to formally commence process	2	\$160	2	\$160	2	\$160
1.2 Research & Review of planning/financial documents	20	\$1,600	20	\$1,600	20	\$1,600
1.3 Meetings with stakeholders & community	0	\$0	20	\$1,600	20	\$1,600
Phase Total	22	\$1,760	42	\$3,360	42	\$3,360
Phase II Prepare Draft						
2.1 Narrative, calculations, mapping	100	\$8,000	100	\$8,000	100	\$8,000
Phase Total	100	\$8,000	100	\$8,000	100	\$8,000
Phase III Reviews & Edits						
3.1 Joint workshop with PC & County Council	6	\$480	6	\$480	6	\$480
3.2 Refine and complete study	20	\$1,600	20	\$1,600	20	\$1,600
Phase Total	26	\$2,080	26	\$2,080	26	\$2,080
Phase IV Final Adoption						
4.1 PC public hearing & County Council adoption	8	\$640	8	\$640	8	\$640
4.2 Assist with ordinance preparation**	0	\$0	0	\$0	20	\$1,600
Phase Total	8	\$640	8	\$640	28	\$2,240
Project Total - Original Scope		\$ 12,480				
Project Total - Updated Scope				\$ 14,080		
Project Total - Expanded Scope						\$ 23,680

Phase V Final Plan Development/Adoption

- 5.1 Develop administrative process**
5.2 Prepare training procedures and train staff**

Notes:
**In consultation with in-house County Attorney.
**In cooperation with County staff.

STATE OF SOUTH CAROLINA
TOWN COUNCIL FOR THE TOWN OF FORT MILL
ORDINANCE NO. 2015-__

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE TOWN OF FORT MILL; CHAPTER 2, ADMINISTRATION; ARTICLE IV, FINANCE AND TAXATION; SO AS TO ADD A NEW DIVISION TO BE NUMBERED DIVISION 4, DEVELOPMENT IMPACT FEES; PROVIDING FOR THE ADOPTION OF DEVELOPMENT IMPACT FEES FOR THE TOWN OF FORT MILL; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT THEREOF; AND OTHER MATTERS RELATED THERETO

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF FORT MILL:

SECTION I. The Code of Ordinances for the Town of Fort Mill; Chapter 2, Administration; Article IV, Finance and Taxation; is hereby amended by adding a division, to be numbered Division 4, Development Impact Fees; which division shall read as follows:

DIVISION 4. DEVELOPMENT IMPACT FEES

Sec. 2-300. Title

This ordinance shall be referred to as the “Development Impact Fee Ordinance for the Town of Fort Mill, South Carolina.”

Sec. 2-301. Authority

This ordinance is adopted pursuant to and in compliance with the authority of the South Carolina Development Impact Fee Act, Code of Laws of South Carolina, Title 6, Article 9, Chapter 1 (the “Act”), and is to be interpreted in accordance with such Act , or as it may be amended in the future.

Sec. 2-302. Findings

The Fort Mill Town Council hereby declares that:

- (a) Adequate parks and recreation facilities, fire protection, municipal facilities and equipment, and transportation system are vital and necessary to the health, safety, welfare, and prosperity of the Town and its citizens. Substantial growth and new construction is taking place within the Town and is anticipated to continue. This growth creates substantial need for new infrastructure capacity. Meeting these needs is very costly; however, failure to do so will result in an inadequate system of facilities and equipment to accommodate anticipated demand. This would make the Town a less desirable place to live and do business and be detrimental to the health, safety, welfare, and prosperity of the Town and its citizens.

- (b) To the extent that future growth and new construction in the Town place demands on parks and recreation facilities, fire protection, municipal facilities and equipment, or the transportation system those demands and needs should be met by shifting a portion of the capital costs for providing new capacity to serve new development, which creates, in whole or in part, these demands and needs.
- (c) By Resolutions adopted on April 14, 2014, and April 27, 2015, the Town Council directed the Planning Commission to conduct the necessary studies and develop a recommended development impact fee ordinance in accordance with the requirements of the Act.
- (d) The Planning Commission recommended to Town Council a *Development Impact Fee Study Report for Fort Mill* dated February 23, 2015, a *Town of Fort Mill Capital Improvements Plan* with projects eligible for impact fee funding dated June 23, 2015, and a *Housing Affordability Analysis in Support of a Development Impact Fee Study Report in Fort Mill* dated February 23, 2015, each of which have been adopted by the Town Council, as modified.
- (e) This ordinance is enacted to implement the findings and recommendations of the *Development Impact Fee Study Report for Fort Mill* and endorse the list of capital projects eligible for impact fee funding in the *Town of Fort Mill Capital Improvements Plan*.
- (f) The impact fees prescribed in this ordinance are equitable, do not impose an unfair or disproportionate burden on developers and new construction, and are in the best interests of the general welfare of Fort Mill and its citizens.
- (g) New facilities or equipment eligible for development impact fee funding will benefit all new development or redevelopment in Town limits. Therefore, it is appropriate to treat the entire town as one service area for calculating, collecting, and spending development impact fees.
- (h) This ordinance provides the procedures for timely processing of applications for determination of appropriate development impact fees applicable to all development inside Town limits subject to the impact fees, and for the timely processing of applications for individual assessment of development impact fees, credits, or reimbursements allowed or paid.
- (i) The transportation impact fees presented in Exhibit A of this ordinance reflect the Town's commitment to provide road capacity for future vehicle trips using maximum service capacities defined by the 2010 Highway Capacity Manual, based on average daily traffic volumes and measurements.
- (j) The maximum allowable parks and recreation impact fee determined in the *Development Impact Fee Study Report for Fort Mill* has been reduced by ten percent (10%) for the General Development Impact Fee Schedule summarized in Exhibit A of this ordinance, setting the fees at ninety percent (90%) of the maximum amount to provide a reasonable

fee for residential investment and to ensure that the impact fees collected do not exceed the cost to provide capital facilities that accommodate new development.

- (k) The maximum allowable fire protection impact fee determined in the *Development Impact Fee Study Report for Fort Mill* has been reduced by fifty percent (50%) for the General Development Impact Fee Schedule summarized in Exhibit A of this ordinance, setting the fees at fifty percent (50%) of the maximum amount to provide a reasonable fee for residential and non-residential investments and to ensure that the impact fees collected do not exceed the cost to provide capital facilities and equipment that accommodate new development.
- (l) The maximum allowable municipal facilities and equipment impact fee determined in the *Development Impact Fee Study Report for Fort Mill* has been reduced by fifty percent (50%) for the General Development Impact Fee Schedule summarized in Exhibit A of this ordinance, setting the fees at fifty percent (50%) of the maximum amount to provide a reasonable fee for residential and non-residential investments and to ensure that the impact fees collected do not exceed the cost to provide capital facilities and equipment that accommodate new development.
- (m) The maximum allowable transportation impact fee determined in the *Development Impact Fee Study Report for Fort Mill* has been reduced by one hundred percent (100%) for the General Development Impact Fee Schedule summarized in Exhibit A of this ordinance, setting the fees at zero percent (0%) of the maximum amount to provide a reasonable fee and non-residential investments and to ensure that the impact fees collected do not exceed the cost to provide capital transportation facilities that accommodate new development.
- (n) Property for which a valid building permit has been issued prior to the effective date of this ordinance shall not be subject to new or updated development impact fees.

Sec. 2-303. Definitions

The following definitions apply within this ordinance consistent with the provisions set forth in the South Carolina Development Impact fee Act, or as it may be amended in the future. Where terms are not defined, the definitions used in the Town of Fort Mill Code of Ordinances shall apply.

- (a) Affordable Housing. Housing that is affordable to families whose incomes do not exceed eighty (80%) percent of the median income for the service zone established for the Town of Fort Mill.
- (b) Building Permit. A permit issued by the Town permitting the construction of a building or structure within Town limits.
- (c) Capital Improvement. Improvements with a useful life of five years or more, by new construction or other action, which increase the service capacity of the public facility.

Public facilities for the purpose of this ordinance include parks and recreation facilities, fire protection, municipal facilities and equipment, and transportation.

- (d) Capital Improvements Plan (CIP). A multi-year planning tool used to identify capital projects and coordinate financing and implementation. The Plan also identifies capital improvements for which impact fees may be used as a funding source.
- (e) Certificate of Occupancy. A certificate allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with the Town of Fort Mill Code of Ordinances and all other applicable regulations.
- (f) Credits. Impact fee deductions allowed to a fee payor for eligible off-site capital improvements funded by the fee payor.
- (g) Developer. An individual, corporation, partnership, or other legal entity undertaking new development.
- (h) Development. Construction or installation of a new building or structure, or a change in use of an existing building or structure, any of which creates additional demand and need for public facilities (i.e., parks and recreation, fire protection, municipal facilities and equipment, or transportation). A building or structure shall include, but not be limited to, modular buildings and manufactured housing. Development does not include alterations made to existing single-family homes.
- (i) Development Impact Fee. A financial payment made by a developer to a local government for funding certain off-site capital improvements identified to accommodate future growth. Development impact fees (or "impact fees") are collected by the Town for parks and recreation facilities, fire protection, municipal facilities and equipment, and transportation.
- (j) Fee Payor. A developer that pays or is required to pay a development impact fee.
- (k) Fire Protection Impact Fee. A payment of money imposed as a condition of approval to pay a proportionate share of the cost for improvements to the fire protection system identified to serve new development.
- (l) Municipal Facilities and Equipment Impact Fee. A payment of money imposed as a condition of approval to pay a proportionate share of the cost for improvements to the municipal facilities and equipment system identified to serve new development.
- (m) Off-Site Improvements. Capital improvements located outside of the boundaries of a development that are required to serve the development's demands and needs.
- (n) Parks and Recreation Impact Fee. A payment of money imposed as a condition of approval to pay a proportionate share of the cost for improvements to the parks and recreation system identified to serve new development.

- (o) Public Facilities. Improvements to and/or construction of capital improvements identified in the *Town of Fort Mill Capital Improvements Plan* and the *Development Impact Fee Study Report for Fort Mill* as described in Section 2-304 hereof. Public facilities for the purpose of this ordinance shall include parks and recreation facilities, fire protection, municipal facilities and equipment, and transportation.
- (p) Square Feet (s.f.). As referred to in Exhibit A of this ordinance, means the sum (in square feet) of the area of each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (measured 6 foot, 6 inches minimum) regardless of their use. If a ground-level area of a building, or part thereof, within the principal outside faces of the exterior walls is not enclosed, this square footage definition considers it part of the overall square footage for the building. However, unroofed areas and unenclosed roofed-over spaces, except those contained within the principle outside faces of exterior walls, should be excluded from the area measurement. The area of any parking garage within a building shall not be included in the area measurement.
- (q) System Improvement. A capital improvement to a public facility which is designed to provide service to a service area.
- (r) System Improvement Costs. The costs incurred for construction and reconstruction of system improvements, including design, acquisition, engineering, and other costs attributable to the improvements, and also including the cost of providing additional public facilities needed to serve new growth and development. System improvement costs do not include:
- (1) Construction, acquisition, or expansion of public facilities other than capital improvements eligible for impact fee funding that are identified in the *Town of Fort Mill Capital Improvements Plan*;
 - (2) Repair, operation, or maintenance of existing or new capital improvements;
 - (3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
 - (4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
 - (5) Administrative and operating costs of the governmental entity; or
 - (6) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements eligible for impact fee funding that are identified in the *Town of Fort Mill Capital Improvements Plan*.

- (s) Transportation Impact Fee. A payment of money imposed as a condition of approval to pay a proportionate share of the cost for improvements to the transportation system identified to serve new development.
- (t) Volume to Service Capacity Ratio. A measurement of the relationship between average daily traffic volumes (demand) and average daily maximum service capacities (supply) for transportation facilities in the Fort Mill Study Area. A volume to service capacity ratio greater than 1.00 identified the need for a capacity-enhancing improvement. This measurement is consistent with the methodology used by the Rock Hill – Fort Mill Area Transportation Study (RFATS) Metropolitan Planning Organization for developing the 2035 Long Range Transportation Plan.

Sec. 2-304. Supporting Documentation

This ordinance is based upon the conclusions and recommendations presented in the *Development Impact Fee Study Report for Fort Mill* and the *Housing Affordability Analysis in Support of a Development Impact Fee Study in Fort Mill*, prepared consistent with the provisions set forth in the Act and adopted by resolution of Town Council on April 27, 2015, and the *Town of Fort Mill Capital Improvements Plan*, prepared consistent with the provisions set forth in the Act and adopted by ordinance of Town Council August 24, 2015. All three documents are and shall remain on file in the Town Planning Department and are hereby incorporated into this ordinance by reference.

All development impact fees collected pursuant to this ordinance shall be used to implement any or all of the public facilities deemed eligible for impact fee funding identified in the *Town of Fort Mill Capital Improvements Plan* as prioritized therein.

Sec. 2-305. Jurisdiction

A development impact fee shall apply to all new development or redevelopment located within Town limits.

Sec. 2-306. Application and Exemptions

The provisions of the ordinance shall apply to all new development or redevelopment within Town limits for which a building permit or development approval is required except for the following:

- (a) Rebuilding the same amount of floor space of a structure that was destroyed by fire or other natural catastrophe;
- (b) Remodeling or repairing a structure with the same land use that does not result in an increase in the number of service units or place new demand on parks and recreation facilities, fire protection, municipal facilities and equipment, or transportation system;

- (c) Replacing a residential unit, including a manufactured home, with another residential unit on the same lot, if the amount of traffic generated by the new residential unit does not increase;
- (d) Placing a construction trailer or temporary office on a lot during the period of construction on the same lot;
- (e) Construction of an addition to a residential structure that does not increase the amount of traffic generated by the same land use;
- (f) Adding uses that are typically accessory to residential uses, such as a tennis court or a clubhouse, unless it is demonstrated clearly that the use creates new demand for parks and recreation facilities, fire protection, municipal facilities and equipment, or the transportation system; and
- (g) All or part of a particular development project if:
 - (1) The project is determined to create affordable housing; and
 - (2) The exempt development's proportionate share of system improvements is funded through a revenue source other than development impact fees.

Sec. 2-307. Provisions for Affordable Housing

Because all or part of any particular development project may be exempt from development impact fees for affordable housing, the following sets forth the administrative standards for determining what constitutes affordable housing and the procedures for exemption from one or more development impact fees.

(a) Median Household Income

Affordable housing is based upon eighty percent (80%) of the median household income for residents living within the Town of Fort Mill. Median household income shall be determined once a year utilizing the following procedure:

- (1) The most recently available figures from the US Census Bureau American Community Survey will serve as the base year for this evaluation;
- (2) Each subsequent year will be adjusted once annually thereafter during January of the calendar year based upon the previous year's published Consumer Price Index (CPI) increase, until the next US Census Bureau data set is published and this procedure is replicated.

(b) Maximum Expenditure

The maximum expenditure for housing costs shall correspond to the Fannie Mae Foundation Mortgage Calculator multiplier of thirty percent (30%) of gross household income as used in the *Housing Affordability Analysis in Support of a Development Impact Fee Study in Fort Mill*. Affordable housing based upon eighty percent (80%) of median household income is:

- (1) Multifamily rental dwelling units of which the gross monthly rent cost does not exceed thirty percent (30%) of eighty percent (80%) of the gross median household monthly income.
- (2) Fee simple ownership dwelling units of which the cost of homeownership for the dwelling unit do not exceed thirty percent (30%) of eighty percent (80%) of the gross median household monthly income as reflected in the sales price using the Fannie Mae Foundation Mortgage Calculator (or comparable methodology) assuming a 20% down payment and a specified interest rate. The specified interest rate shall be determined by selecting the lowest 30-year fixed mortgage rate reported by area lending institutions as of the first week of January for any given year and shall remain so for the balance of the year.

(c) Procedures for Exemption from Development Impact Fees

- (1) A developer seeking exemption from one or more development impact fees for the construction of affordable multifamily rental dwelling units must identify the alternate source of funds for the impact fee and, unless the alternate source is from Town resources, post a financial guarantee suitable to the Town prior to the issuance of a building permit. The amount of the financial guarantee shall reflect the amount of development impact fees due for all affordable housing units as if they were not affordable housing units. No Certificate of Occupancy for any of the units may be issued until the impact fees for the affordable housing units have been paid by the alternate source or from the proceeds of the financial guarantee.

If the alternate source of funds for impact fees is from Town resources, prior to issuance of the Certificate of Occupancy by the Town, the developer shall record an agreement approved by the Town restricting the monthly rental cost of each affordable housing unit for a period of six (6) years. Upon delivery of the recorded rent control agreement, the Certificate of Occupancy shall be issued.

- (2) A developer seeking exemption from one or more development impact fees for construction of a fee simple ownership dwelling unit shall identify the alternate source of funds for the impact fees and, unless the alternate source is from Town resources, post a financial guarantee suitable to the Town prior to the issuance of a building permit. The amount of the financial guarantee shall reflect the amount of development impact fees due for all affordable housing units as if they were not affordable housing units. No Certificate of Occupancy may be issued for the affordable housing dwellings until the impact fees have been paid by the alternate source or from the proceeds of the financial guarantee.

If the alternate source of funds for impact fees is from Town resources, prior to the issuance of a Certificate of Occupancy by the Town, the developer shall file with the Town a closing statement for the dwelling unit indicating an arm's length sales price no greater than that allowed for affordable housing at the time of final sale and a recorded covenant, approved by the Town, restricting the sales price of the dwelling, for a period of six (6) years, to the original sales price, adjusted annually for inflation.

Sec. 2-308. Determination of Fees

(a) General Provisions

- (1) The Town Planning Department shall determine, assess and collect all development impact fees administered within the Town limits.
- (2) Upon the effective date of this ordinance, development impact fees shall be charged to new development or redevelopment in accordance with the procedures set forth in this ordinance. The fees to be collected for a development will be determined at the time of application for a building permit. If the development is one that does not require a building permit, the impact fee for the development will be determined at the time of development approval. No building permit or development approval shall be issued for any development requiring the payment of development impact fees until the fees have been assessed by and remitted to the Town Planning Department, or in the case of affordable housing, the appropriate financial guarantees have been filed with the Town Manager. At the Town Planning Director's discretion, any development impact fees assessed at the time of permitting may be remitted after the issuance of a building permit, but in all instances, the development impact fees must be remitted to the Town Planning Department prior to the issuance of a Certificate of Occupancy. Payment of such fees shall not relieve the developer from obligations to comply with any other applicable Town ordinances, regulations, or requirements including, but not limited to, the "Zoning," "Subdivisions," or "Buildings and Building Regulations" Chapters of the Town of Fort Mill Code of Ordinances prior to receiving a Certificate of Occupancy.
- (3) All monies paid by the fee payor pursuant to this ordinance shall be identified as development impact fees and promptly deposited in the appropriate development impact fee trust fund described under Section 2-309 of this ordinance.
- (4) For the purpose of calculating development impact fees, the land use types assumed in the General Development Impact Fee Schedule of this ordinance (i.e., Exhibit A) shall be defined in accordance with the definitions contained in the Institute of Transportation Engineers' *Trip Generation Manual*, Ninth Edition (see *Development Impact Fee Study Report for Fort Mill, Appendix B*).
- (5) Payment of development impact fees according to the General Development Impact Fee Schedule (i.e., Exhibit A), or independent impact fee calculation study reviewed

and approved by the Town Planning Director, shall constitute full and complete payment of the new development's proportionate share of public facilities costs.

- (6) A developer may negotiate and contract with the Town to provide facilities or services in lieu of payment of development impact fees in accordance with Section 6-1-1050 of the Act.

(b) Parks and Recreation Impact Fees

(1) Parks and Recreation Impact Fee Formula

Parks and recreation impact fees collected within Town limits shall be in accordance with the following formula:

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

P/HH = Average person per household estimate published by the US Census Bureau for various dwelling unit categories (see *Development Impact Fee Study Report for Fort Mill, Appendix B*).

COST = The cost per capita for providing improvements to parks and recreation facilities based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per capita is \$528.81.

TDR = For the purpose of this calculation, it is Town Council policy to charge only ninety percent (90%) of the maximum allowable parks and recreation impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(2) Determining Park and Recreation Impact Fees

The amount of parks and recreation impact fees attributable to a specific development shall be determined through the following process:

- a. Verify the type and number of new residential dwelling units for which the building permit is being sought;
- b. Determine whether any of the proposed residential dwelling units qualify for a discount on parks and recreation impact fees as "affordable housing" and, if so, the number and type of such units;

- c. Determine the applicable residential dwelling unit category set forth in Exhibit A (as applicable) of this ordinance; and
- d. Multiply the discounted development impact fee rate for the residential dwelling unit category by the number of net new units within the development and the average persons per household estimate.

(3) Independent Parks and Recreation Impact Fee Calculation

In the event that a fee payor or Town staff contend that the land use for which the building permit is being sought is not within those land uses identified in Exhibit A, or if the fee payor contends that the Exhibit A calculations are not accurate for its intended use, then the Town's Planning Director, or its designee, shall make a determination as to the most comparable land use category to assume for calculating parks and recreation impact fees. If the fee payor disagrees with the determination of the Town Planning Director or if the Town otherwise deems it appropriate, an independent impact fee calculation may be performed to quantify the fair share of system improvement costs attributable to the development. Preparation of an independent impact fee calculation will immediately halt the building permit application process until such time that the necessary calculation is deemed complete by the Town Planning Director. If an independent calculation is requested, it must accompany the building permit application and be prepared in accordance with the following provisions:

- a. Independent calculations for the determination of parks and recreation impact fees must be performed by a certified professional engineer, architect, landscape architect, planner or other duly qualified and licensed professional approved by the Town Planning Director.
- b. The independent calculation shall be subject to review and approval by the Town Planning Director, or its designee. In the event that the Town Planning Director elects to contract with a third party to review the independent calculation, the cost of this review shall be borne by the applicant based on the cost of the third party review, plus a ten percent (10%) administrative fee.
- c. The Town Planning Director shall either approve or provide in writing the reasons for disapproval of the independent calculation study within thirty (30) days of its submittal for review.
- d. Prior to commencing the study, the developer's hired professional and the Town Planning Director, or its designee, shall agree upon the relevant factors and values that will be utilized in the independent calculation of impact fees.
- e. The maximum allowable parks and recreation impact fee determined in the *Development Impact Fee Study Report for Fort Mill* shall be reduced by ten percent

(10%) for the purposes of completing an independent impact fee calculation, setting the fees at ninety percent (90%) of the maximum amount.

- f. The independent impact fee calculation shall be based on the following formula:

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

P/HH = Average person per household estimate approved by the Town Planning Director.

COST = The cost per capita for providing improvements to parks and recreation facilities based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per capita is \$528.81.

TDR = For the purpose of this calculation, it is Town Council policy to charge only ninety percent (90%) of the maximum allowable parks and recreation impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(c) Fire Protection Impact Fees

(1) Fire Protection Impact Fee Formula

Fire protection impact fees collected within Town limits shall be in accordance with one of the following formulas:

a. Residential Development

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

P/HH = Average person per household estimate published by the US Census Bureau for various dwelling unit categories (See *Development Impact Fee Study Report for Fort Mill, Appendix B*).

COST = The cost per capita for providing fire protection services based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per capita is \$112.97.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable fire protection impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

b. Non-Residential Development

$$\text{Impact Fee} = ((\text{NNSF})/1,000) \times (\text{ESR}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNSF = The amount of net new square footage generated by the proposed development. In instances where a variable other than square footage is used in determining the ESR (such as hotel rooms, hospital beds, etc.), then that variable shall be used in lieu of square footage, and such variable shall not be divided by 1,000 in the formula above.

ESR = Average employee space ratio developed using information published in the Institute of Transportation Engineers *Trip Generation, Ninth Edition* (see *Development Impact Fee Study Report for Fort Mill, Appendix B*).

COST = The cost per employee for providing fire protection services is based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per employee is \$433.09.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable fire protection impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(2) Determining Fire Protection Impact Fees

The amount of fire protection impact fees attributable to a specific development shall be determined through the following process:

- a. Verify the type and number of new residential dwelling units or the type and intensity of new non-residential square footage or other land use measuring criteria for which the building permit is being sought;

- b. For residential development, determine whether any of the proposed residential dwelling units qualify for a discount on fire protection impact fees as "affordable housing" and, if so, the number and type of such units;
- c. Determine the applicable land use type and impact fee per unit set forth in Exhibit A (as applicable) of this ordinance; and
- d. Multiply the discounted development impact fee rate for the specified land use category by the number of net new units or net new square footage within the development (as applicable) and the average persons per household or employee space ratio estimate (as applicable).

(3) Independent Fire Protection Impact Fee Calculation

In the event that a fee payor or Town staff contend that the land use for which the building permit is being sought is not within those land uses identified in Exhibit A, or if the fee payor contends that the Exhibit A calculations are not accurate for its intended use, then the Town Planning Director, or its designee, shall make a determination as to the most comparable land use category to assume for calculating fire protection impact fees. If the fee payor disagrees with the determination of the Town Planning Director or if the Town otherwise deems it appropriate, an independent impact fee calculation may be performed to quantify the fair share of system improvement costs attributable to the development. Preparation of an independent impact fee calculation will immediately halt the building permit application process until such time that the necessary calculation is deemed complete by the Town Planning Director. If an independent calculation is requested, it must accompany the building permit application and be prepared in accordance with the following provisions:

- a. Independent calculations for the determination of fire protection impact fees must be performed by a certified professional engineer, architect, landscape architect, planner or other duly qualified and licensed professional approved by the Town Planning Director.
- b. The independent calculation shall be subject to review and approval by the Town Planning Director, or its designee. In the event that the Town Planning Director elects to contract with a third party to review the independent calculation, the cost of this review shall be borne by the applicant based on the cost of the third party review, plus a ten percent (10%) administrative fee.
- c. The Town Planning Director shall either approve or provide in writing the reasons for disapproval of the independent calculation study within thirty (30) days of its submittal for review.
- d. Prior to commencing the study, the developer's hired professional and the Town Planning Director, or its designee, shall agree upon the relevant factors and values that will be utilized in the independent calculation of impact fees.

- e. The maximum allowable fire protection impact fee determined in the *Development Impact Fee Study Report for Fort Mill* shall be reduced by fifty percent (50%) for the purposes of completing an independent impact fee calculation, setting the fees at fifty percent (50%) of the maximum amount.
- f. The independent impact fee calculation shall be based on one of the following formulas:

1. Residential Development

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

P/HH = Average person per household estimate approved by the Town Planning Director.

COST = The cost per capita for providing fire protection services based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per capita is \$112.97.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable fire protection impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

2. Non-Residential Development

$$\text{Impact Fee} = ((\text{NNSF})/1000) \times (\text{ESR}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNSF = The amount of net new square footage generated by the proposed development. In instances where a variable other than square footage is used in determining the ESR (such as hotel rooms, hospital beds, etc.), then that variable shall be used in lieu of square footage, and such variable shall not be divided by 1,000 in the formula above.

ESR = Average employee space ratio approved by the Town Planning Director.

COST = The cost per employee for providing fire protection services based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per employee is \$433.09.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable fire protection impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(d) Municipal Facilities and Equipment Impact Fees

(1) Municipal Facilities and Equipment Impact Fee Formula

Municipal facilities and equipment impact fees collected within Town limits shall be in accordance with one of the following formulas:

a. Residential Development

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

P/HH = Average person per household estimate published by the US Census Bureau for various dwelling unit categories (See *Development Impact Fee Study Report for Fort Mill, Appendix B*).

COST = The cost per capita for providing municipal facilities and equipment based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per capita is \$290.11.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable municipal facilities and services impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

b. Non-Residential Development

$$\text{Impact Fee} = ((\text{NNSF})/1000) \times (\text{ESR}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNSF = The amount of net new square footage generated by the proposed development. In instances where a variable other than square footage is used in determining the ESR (such as hotel rooms, hospital beds, etc.), then that variable shall be used in lieu of square footage, and such variable shall not be divided by 1,000 in the formula above.

ESR = Average employee space ratio developed using information published in the Institute of Transportation Engineers *Trip Generation, Ninth Edition* (see *Development Impact Fee Study Report for Fort Mill, Appendix B*).

COST = The cost per employee for providing municipal facilities and equipment based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per employee is \$259.44.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable municipal facilities and equipment impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(2) Determining Municipal Facilities and Equipment Impact Fees

The amount of municipal facilities and equipment impact fees attributable to a specific development shall be determined through the following process:

- a. Verify the type and number of new residential dwelling units or the type and intensity of new non-residential square footage or other land use measuring criteria for which the building permit is being sought;
- b. For residential development, determine whether any of the proposed residential dwelling units qualify for a discount on municipal facilities and equipment impact fees as "affordable housing" and, if so, the number and type of such units;
- c. Determine the applicable land use type and impact fee per unit set forth in Exhibit A (as applicable) of this ordinance; and
- d. Multiply the discounted development impact fee rate for the specified land use category by the number of net new units or net new square footage within the development (as applicable) and the average persons per household or employee space ratio estimate (as applicable).

(3) Independent Municipal Facilities and Equipment Impact Fee Calculation

In the event that a fee payor or Town staff contend that the land use for which the building permit is being sought is not within those land uses identified in Exhibit A, or if the fee payor contends that the Exhibit A calculations are not accurate for its intended use, then the Town Planning Director, or its designee, shall make a determination as to the most comparable land use category to assume for calculating municipal facilities and equipment impact fees. If the fee payor disagrees with the determination of the Town Planning Director or if the Town otherwise deems it appropriate, an independent impact fee calculation may be performed to quantify the fair share of system improvement costs attributable to the development. Preparation of an independent impact fee calculation will immediately halt the building permit application process until such time that the necessary calculation is deemed complete by the Town Planning Director. If an independent calculation is requested, it must accompany the building permit application and be prepared in accordance with the following provisions:

- a. Independent calculations for the determination of municipal facilities and equipment impact fees must be performed by a certified professional engineer, architect, landscape architect, planner or other duly qualified and licensed professional approved by the Town Planning Director.
- b. The independent calculation shall be subject to review and approval by the Town Planning Director, or its designee. In the event that the Town Planning Director elects to contract with a third party to review the independent calculation, the cost of this review shall be borne by the applicant based on the cost of the third party review, plus a ten percent (10%) administrative fee.
- c. The Town Planning Director shall either approve or provide in writing the reasons for disapproval of the independent calculation study within thirty (30) days of its submittal for review.
- d. Prior to commencing the study, the developer's hired professional and the Town Planning Director, or its designee, shall agree upon the relevant factors and values that will be utilized in the independent calculation of impact fees.
- e. The maximum allowable municipal facilities and equipment impact fee determined in the *Development Impact Fee Study Report for Fort Mill* shall be reduced by fifty percent (50%) for the purposes of completing an independent impact fee calculation, setting the fees at fifty percent (50%) of the maximum amount.
- f. The independent impact fee calculation shall be based on one of the following formulas:

1. Residential Development

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

P/HH = Average person per household estimate approved by the Town Planning Director.

COST = The cost per capita for providing municipal facilities and equipment based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per capita is \$290.11.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable municipal facilities and equipment impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

2. Non-Residential Development

$$\text{Impact Fee} = ((\text{NNSF})/1000) \times (\text{ESR}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNSF = The amount of net new square footage generated by the proposed development. In instances where a variable other than square footage is used in determining the ESR (such as hotel rooms, hospital beds, etc.), then that variable shall be used in lieu of square footage, and such variable shall not be divided by 1,000 in the formula above.

ESR = Average employee space ratio approved by the Town Planning Director.

COST = The cost per employee for providing municipal facilities and equipment is based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per employee is \$259.44.

TDR = For the purpose of this calculation, it is Town Council policy to charge only fifty percent (50%) of the maximum allowable municipal facilities and equipment impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(e) Transportation Impact Fees

(1) Transportation Impact Fee Formula

Transportation impact fees collected within Town limits shall be in accordance with one of the following formulas:

a. Residential Development

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{TRIPS}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

TRIPS = The number of new average daily trips generated by the proposed development taking into account the rate of pass-by capture published in the most current edition of the *Trip Generation Handbook* published by the Institute of Transportation Engineers.

COST = The cost per trip for providing transportation improvements based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per trip is \$99.53.

TDR = For the purpose of this calculation, it is Town Council policy to charge zero percent (0%) of the maximum allowable transportation impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

b. Non-Residential Development

$$\text{Impact Fee} = ((\text{NNSF})/1000) \times (\text{TRIPS}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNSF = The amount of net new square footage generated by the proposed development. In instances where a variable other than square footage is used in determining TRIPS (such as hotel rooms, hospital beds, etc.), then that variable shall be used in lieu of square footage, and such variable shall not be divided by 1,000 in the formula above.

TRIPS = The number of new average daily trips generated by the proposed development taking into account the rate of pass-by capture published in the most current edition of the *Trip Generation Handbook* published by the Institute of Transportation Engineers.

COST = The cost per trip for providing transportation improvements based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per trip is \$99.53.

TDR = For the purpose of this calculation, it is Town Council policy to charge zero percent (0%) of the maximum allowable transportation impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(2) Determining Transportation Impact Fees

The amount of transportation impact fees attributable to a specific development shall be determined through the following process:

- a. Verify the type and number of new residential dwelling units or the type and intensity of new non-residential square footage or other land use measuring criteria for which the building permit is being sought;
- b. For residential development, determine whether any of the proposed residential dwelling units qualify for a discount on transportation impact fees as "affordable housing" and, if so, the number and type of such units;
- c. Determine the applicable land use type and impact fee per unit set forth in Exhibit A (as applicable) of this ordinance; and
- d. Multiply the discounted impact fee rate for the specified land use by the number of units or square footage for the same land use within the development.

(3) Independent Transportation Impact Fee Calculation

In the event that a fee payor or Town staff contend that the land use for which the building permit is being sought is not within those land uses identified in Exhibit A, or if the fee payor contends that the Exhibit A calculations are not accurate for its intended use, then the Town Planning Director, or its designee, shall make a determination as to the most comparable land use category to assume for calculating transportation impact fees. If the fee payor disagrees with the determination of the Town Planning Director or if the Town otherwise deems it appropriate, an independent impact fee calculation may be performed to quantify the fair share of transportation system improvement costs attributable to the development. Preparation of an independent impact fee calculation will immediately halt the building permit application process until such time that the necessary calculation is deemed complete by the Town Planning Director. If an independent calculation is requested, it must accompany the building permit application and be prepared in accordance with the following provisions:

- a. Independent calculations for the determination of transportation impact fees must be performed by a duly qualified and licensed engineer in the State of South Carolina, based upon sound traffic engineering studies utilizing accepted engineering practices and planning principles.
- b. The independent calculation shall be subject to review and approval by the Town Planning Director, or its designee. In the event that the Town Planning Director elects to contract with a third party to review the independent calculation, the cost of this review shall be borne by the applicant based on the cost of the third party review, plus a ten percent (10%) administrative fee.
- c. The Town Planning Director shall either approve or provide in writing the reasons for disapproval of the independent calculation study within thirty (30) days of its submittal for review.
- d. Prior to commencing the study, the developer's hired professional and the Town Planning Director, or its designee, shall agree upon the relevant factors and values that will be utilized in the independent calculation of impact fees.
- e. Process for the independent calculation study for determination of transportation impact fees:
 1. Determine base trip generation for the proposed land use(s) utilizing the Institute of Transportation Engineers' *Trip Generation Manual*, Ninth Edition (or subsequent editions).
 2. Base trip generation may be reduced by rate of pass-by capture using methodology in the most current *Trip Generation Handbook* published by the Institute of Transportation Engineers.
 3. Base trip generation may be reduced by rate of internal capture when two or more land uses are proposed and at least one of those land uses is residential in nature and at least one of the other land uses is non-residential in nature using methodology recommended in the most current *Trip Generation Handbook* published by the Institute of Transportation Engineers, subject to approval for use by the Town Planning Director.
 4. The maximum allowable transportation impact fee determined in the *Development Impact Fee Study Report for Fort Mill* shall be reduced by one hundred percent (100%) for the purposes of completing an independent impact fee calculation, setting the fees at zero percent (0%) of the maximum amount.
 5. The independent impact fee calculation shall be based on one of the following formulas:
 - i. Residential Development

$$\text{Impact Fee} = (\text{NNDU}) \times (\text{TRIPS}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed development.

TRIPS = The number of new average daily trips generated by the proposed development taking into account the rate of pass-by capture published in the most current edition of the *Trip Generation Handbook* published by the Institute of Transportation Engineers.

COST = The cost per trip for providing transportation improvements based on information presented in the *Development Impact Fee Study Report for Fort Mill* adopted by Town Council on April 27, 2015. The cost per trip is \$99.53.

TDR = For the purpose of this calculation, it is Town Council policy to charge zero percent (0%) of the maximum allowable transportation impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

ii. Non-Residential Development

$$\text{Impact Fee} = ((\text{NNSF})/1000) \times (\text{TRIPS}) \times (\text{COST}) \times (\text{TDR})$$

Where:

NNSF = The amount of net new square footage generated by the proposed development. In instances where a variable other than square footage is used in determining TRIPS (such as hotel rooms, hospital beds, etc.), then that variable shall be used in lieu of square footage, and such variable shall not be divided by 1,000 in the formula above.

TRIPS = The number of new average daily trips generated by the proposed development taking into account the rate of pass-by capture published in the most current edition of the *Trip Generation Handbook* published by the Institute of Transportation Engineers.

COST = The cost per trip for providing transportation improvements based on information presented in the

Development Impact Fee Study Report for Fort Mill adopted by Town Council on April 27, 2015. The cost per trip is \$99.53.

TDR = For the purpose of this calculation, it is Town Council policy to charge zero percent (10%) of the maximum allowable transportation impact fee determined in the *Development Impact Fee Study Report for Fort Mill*.

(f) Special Cases

The Town Planning Department shall take the following special cases into account when calculating development impact fees for a building permit application:

- (1) When an application for a building permit has been made that contains two or more land uses in any combination, including two or more land uses within a single building or structure, the total development impact fee assessment shall be the sum of the products, as calculated above, for each land use unless an independent impact fee calculation is performed, and approved for use by the Town Planning Director, or its designee, consistent with subsections (b), (c), (d) and (e) of this section.
- (2) In the case of a change, redevelopment, or modification of a land use which requires a building permit, and which is not exempted from development impact fees under Section 2-306 of this ordinance, the impact fee calculation shall be based upon the net increase in new or proposed land use as compared to the existing or previous land use.
- (3) In the case of a demolition or termination of an existing use or structure, development impact fees for future redevelopment shall be based upon the net increase in development impact fees for the new or proposed land use as compared to the existing actual active previous land use since its original occupancy. Credit for the prior use shall not be transferable to another location.
- (4) In the case of relocating an existing land use, development impact fees shall be assessed to the relocated use at its new location. Future redevelopment of the old location from which the use was removed will receive a credit against development impact fees assessed equal to the impact fees that would have been assessed against the relocated use. Credits shall not be transferable to the new location.
- (5) Before a building permit application may become eligible for the provisions set forth in paragraphs (2), (3) and (4), a developer shall provide reasonably sufficient evidence that a previous land use had been actively maintained on the site within twelve (12) months of the date of application for a building permit. Such evidence may include proof of utility records, records for the use sought to be shown, or other documentation.
- (6) Any claim of existing or previous use must be made no later than the time for application of a building permit. Any claim made after such time shall be deemed invalid.

Sec. 2-309. Impact Fee Trust Funds

Development impact fees collected pursuant to this ordinance shall be kept separate from other revenue of the Town. There shall be one trust fund established for each development impact fee category depicted in Exhibit A of this ordinance: parks and recreation, fire protection, municipal facilities and equipment, and transportation. All development impact fees collected shall be properly identified by property address noted on the approved building permit and by the appropriate trust account.

Any funds on deposit not immediately necessary for expenditure shall be maintained in an interest-bearing account prior to expenditure on recommended projects. Interest earned on development impact fees in deposit must be considered revenue to the trust fund account for which income is earned and must be subject to all restrictions placed on the use of development impact fees pursuant to this ordinance.

Sec. 2-310. Limitation on Expenditures of Funds Collected

(a) Eligible System Improvement Costs

Funds from development impact fee trust accounts shall be expended only for the public facilities and system improvements identified as eligible for impact fee funding in the *Town of Fort Mill Capital Improvements Plan*, incorporated herein by reference. No funds shall be used for administrative or operating costs associated with imposing any of the development impact fees. Eligible components of a public facility may include, but are not limited to, the following:

- (1) Design and construction plan preparation;
- (2) Right-of-way acquisition;
- (3) Construction of new facilities, structures, or amenities that provide additional capacity;
- (4) Purchase of new equipment (>\$100,000 purchase price) that provide additional capacity;
- (5) Construction of new through lanes and/or turn lanes;
- (6) Construction of new bridges;
- (7) Construction of new drainage facilities associated with capital improvements;
- (8) Purchase and installation of traffic signalization;
- (9) Construction of new curbs, medians, and shoulders;

(10) Relocating utilities to accommodate new road construction; and

(11) Principal payments, interest and other finance charges on bonds or other indebtedness issued by or on behalf of the Town for financing any or all public facilities.

(b) Rational Nexus Test

The Town Finance Director, or its designee, shall make an annual report to the Town Council and publish this report for access by the general citizenry showing where development impact fees have been collected and what projects have been funded with these revenues. The Council shall consider this report and whether the fees are being spent for the benefit of new development within Town limits. If the Council determines that this is not the case, then it shall adjust the *Town of Fort Mill Capital Improvements Plan* and other projected capital expenditures to correct the condition.

(c) Expenditure of Funds

Development impact fee funds shall be expended in the order in which they were collected. The disbursement of such funds shall require approval of the Town Council, upon recommendation of the Town Manager or its designee.

(d) Reimbursement

Impact fee funds not obligated for expenditure within three (3) years of the date that they are scheduled to be expended in the *Town of Fort Mill Capital Improvements Plan* shall be returned, with actual interest earned, to the record owner of the property for which the fees were collected, on a first-in, first-out basis.

Sec. 2-311. Credits / Reimbursements

(a) General Provisions

(1) A developer shall be entitled to a credit against development impact fees assessed pursuant to this ordinance for Town-approved monetary or in-kind contributions toward some or all of the public facilities included in the *Town of Fort Mill Capital Improvements Plan* that are eligible for impact fee funding.

(2) Development impact fees shall not be imposed on a fee payor or developer who has entered into an agreement with the Town for certain contribution, payment, construction, or dedication of land up to the cash value of the specific improvements identified within the agreement. Any difference between total development impact fees due for the development and the cash value of the executed agreement remain eligible for collection pursuant to the rules and requirements of this ordinance.

- (3) A fee payor shall be reimbursed for contributions of land or facilities that exceed his proportionate share of the cost of public facilities when such excess contribution is made at the request of the Town.

(b) Application for Credit Agreement

- (1) The determination of the amount of any credit shall be undertaken through submission of an Application for Credit Agreement, which shall be submitted through the Town Planning Department for review by the Town Planning Director, or its designee.

- (2) The Application for Credit Agreement shall include the following information:

- a. The following documentation must be provided if the proposed application involves a credit for any cash contribution:
 1. A certified copy of the development approval in which the contribution was agreed; and
 2. Proof of payment (if already made); or
 3. Proposed method of payment (if not already made).
- b. The following documentation must be provided if the proposed application involves credit for dedication of land:
 1. A drawing and legal description of the land;
 2. The appraised fair market value of the land at the date a building permit application is sought for the land use(s), prepared by a professional Real Estate Appraiser who is a member of the member Appraisal Institute (MAL) or who is a member of Senior Residential Appraisers (SRA); and
 3. A certified copy of the development permit in which the land was agreed to be dedicated (if applicable).
- c. The following documentation must be provided if the proposed application involves credit for construction:
 1. The proposed construction documents of the specific construction project prepared and certified by a duly qualified and licensed engineer in the State of South Carolina;
 2. The projected costs for the suggested improvements, which shall be based on local information for similar improvements, along with the construction schedule for the completion of said improvements. Such estimated cost shall include construction or reconstruction of the project, the cost of labor and

materials, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for one (1) year after completion of construction, costs of plans and specifications, surveys of estimates of costs and revenues, costs of professional services, and all of the expenses necessary or incidental to determining the feasibility or practicability of such construction or reconstruction.

- (3) Within fourteen (14) days of receipt of the proposed Application for Credit Agreement, the Town Planning Director, or its designee, shall determine if the application is complete. If it is determined that the proposed agreement is not complete, the Town Planning Director shall send written notification to the applicant outlining the deficiencies. The Town Planning Director shall take no further action on the proposed Application for Credit Agreement until all such deficiencies have been corrected or otherwise settled.
- (4) Once the Town Planning Director determines that the proposed Application for Credit Agreement is complete, it shall be reviewed within thirty (30) days by a committee of designated staff composed of the Town Manager, Town Finance Director, Town Code Enforcement Officer (Plans Submittal Official), and Town Engineer (together known as the Credit Review Committee).
- (5) If the Application for Credit Agreement is approved by the Credit Review Committee, a Credit Agreement shall be prepared and signed by the applicant and the Town Manager. It shall specifically outline the contribution, payment, construction, or land dedication, the time by which it shall be complete, dedicated, or paid, and any extensions thereof, and the dollar credit the applicant shall receive for the contribution, payment, or construction against development impact fees. The agreement may also include provisions for rescinding the credit and issuing stop work orders if the dedication and/or work and/or construction are not timely accomplished.
- (6) A fee payor affected by the decision of the Credit Review Committee regarding credits may appeal such decision pursuant to Section 2-313(a) of this ordinance.

Sec. 2-312. Penalties

Town Council shall have the following remedies, which may be exercised individually or collectively, for collecting development impact fees. The failure to pursue any remedy at any time shall not be deemed as a waiver of Town rights to pursue any remedy at such other time as may be deemed appropriate.

- (a) Interest and Penalties. The Town may, at its discretion, add to the amount of calculated development impact fees due prior to award of a Certificate of Occupancy, reasonable interest and penalties for non-payment or late payment of required funds. Penalties for unpaid development impact fees shall be administered consistent with Chapter 1 (General Provisions), Section 1-6 in the Town of Fort Mill Code of Ordinances, which declares the violation a penalty subject to a fine not to exceed five hundred dollars (\$500.00) or

imprisonment not to exceed thirty (30) days. Each day of violation shall be deemed a separate offense.

- (b) Withholding Certificate of Occupancy. The Town may withhold a Certificate of Occupancy until full and complete payment has been made by the developer of development impact fees due for the development.
- (c) Withholding Utility Service. The Town may withhold the provision of utility services to a development until the required development impact fees have been paid in full.
- (d) Lien. The Town may impose a lien on the developer's property for failure of the developer to pay required development impact fees in full.
- (e) Other. The Town may pursue the collection of the development impact fees, including interest, by way of civil process in the Court of Common Pleas for York County.

Sec. 2-313. Appeal Process

A developer shall have the following rights for appeal of development impact fees imposed by the Town on their development pursuant only to this ordinance:

(a) Administrative Appeal

- (1) A developer may file an administrative appeal with the Town Manager regarding the payment of development impact fees, independent calculation of impact fees, or credits or reimbursements by filing a written Notice of Appeal. Said Notice shall be filed within thirty (30) days of the decision sought to be appealed. The filing of an appeal will immediately halt the building permit application process, unless the developer posts a bond or submits an irrevocable letter of credit for the full amount of the development impact fees as calculated by the Town to be due. All Notices of Appeal shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation that the developer desires to be considered. The appeal shall contain the name and address of the developer filing the appeal and shall state their capacity to act as a representative or agent if they are not the owner of the property to which impact fees or credits pertain.
- (2) Within thirty (30) days following receipt of the written Notice of Appeal, the Town Manager will review the Appellant's written report, supporting documentation and departmental staff reports. The thirty (30) day review period may be extended if additional information is needed from the Appellant in order to render a decision. Upon completion of the administrative review, the Town Manager will provide a written response to the Appellant constituting a final administrative determination.
- (3) Any person desiring to appeal the final administrative determination of the Town Manager regarding payment of development impact fees or credits shall file a written Notice of Appeal to the Town Council. Said Notice of Appeal to Town Council shall

be filed with the Clerk of Town Council within fifteen (15) days following receipt of the final administrative determination. Receipt shall be construed to have occurred when the final administrative decision is deposited in the United States mail postage prepaid to the person whose name and address is identified in the original Notice of Appeal.

- (4) The Town Clerk of Council will schedule all impact fee appeals for the first Town Council meeting following ten (10) days from receipt of the Written Notice of Appeal to the Town Council. Postponements of the Town Council appeal date may be granted by the Town Manager if they are requested in writing at least ten (10) days in advance of the scheduled Town Council meeting date.
- (5) When an Appeal is scheduled for oral presentation before the Town Council, the Appellant and Town staff shall each be given ten (10) minutes at the oral argument to present the Appeal and to discuss the submitted written record.

(b) Payment Under Protest

A fee payer may pay development impact fees under protest. Payment under protest does not preclude the developer from filing an administrative appeal nor is the fee payer estopped from receiving a refund of an amount considered to have been collected illegally. A fee payor, at his option, may also post a bond or submit an irrevocable letter of credit for the amount of development impact fees due instead of making a cash payment under protest, pending the outcome of an appeal.

(c) Mediation

Town Council shall provide for mediation by a qualified independent party, upon voluntary agreement by both the developer and the Town, to address a disagreement related to development impact fees calculated by the Town. Neither a request for, nor participation in, mediation shall preclude a fee payor from pursuing other developer rights or remedies otherwise available by law.

Sec. 2-314. Refunds

(a) General Provisions

Funds not obligated for expenditure within three (3) years of the date that they are scheduled to be expended in the *Town of Fort Mill Capital Improvements Plan* shall be refunded to the record owner of property for which the impact fees were paid, with actual interest earned, on a first-in, first-out basis. For the purpose of determining whether fees have been spent or encumbered, the first money placed in a trust fund account shall be deemed to the first money taken out of that account when withdrawals have been made.

(b) Refund Process

- (1) The owner of property eligible for a refund of one or more development impact fee payments shall submit to the Town Planning Director a notarized sworn statement that the person is the current owner of the property for which a refund is due, a certified copy of the latest recorded deed, and a copy of the most recent ad valorem tax bill for the property.
- (2) When a right to a refund exists, the Town shall send a refund to the current owner of record within ninety (90) days after it is determined by Town Council that a refund is due.
- (3) All refunds shall include the pro rata portion of the interest earned while on deposit in the specific development impact fee trust account.
- (4) A record owner of property for which one or more development impact fee refunds are due has standing to sue for such refund pursuant to Section 6-1-1020(D) of the Act if there has not been a good-faith effort towards a timely payment of a refund pursuant to this section.

Sec. 2-315. Review

- (a) Town Council shall be responsible for preparing and publishing an annual report describing the amount of development impact fees collected, appropriated, and spent during the preceding fiscal year.
- (b) Planning Commission shall be responsible for a holistic review and update of the *Development Impact Fee Study Report for Fort Mill, Town of Fort Mill Capital Improvements Plan, Housing Affordability Analysis in Support of a Development Impact Fee Study in Fort Mill* and the *Development Impact Fee Ordinance for the Town of Fort Mill* in the same manner and on the same review cycle as the Town of Fort Mill Comprehensive Plan.

Sec. 2-316. Termination of Development Impact Fees

Development impact fees for the Town of Fort Mill shall be terminated within fifteen (15) years after the effective date of this ordinance, or when sufficient fees have been collected to fund all of the projects eligible for development impact fee funding that are identified in the *Town of Fort Mill Capital Improvements Plan*, whichever shall first occur, unless:

- (a) Town Council adopts a revised *Development Impact Fee Study Report for Fort Mill* or amends the *Town of Fort Mill Capital Improvements Plan* for a subsequent amount of time; or
- (b) Town Council adopts an updated *Development Impact Fee Ordinance for the Town of Fort Mill* pursuant to the substantive and procedural requirements set forth in the South Carolina Development Impact Fee Act, as amended.

Sec. 2-317. Liberal Construction

The provisions of this ordinance shall be liberally construed to effectively carry out its purpose in the interest of further promoting and protecting public health, safety, welfare, and convenience.

SECTION II. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court, such section, subsection, sentence, clause, phrase or portion of this ordinance shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of this ordinance nor impair or nullify the remainder of these provisions which shall continue in full force and effect.

If the application of any provision of this ordinance to any new development is declared to be invalid by a decision of any court, the intent of Town Council is that such decision shall be limited only to the specific new development expressly involved in the controversy, action, or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this ordinance as a whole or the application of any provision of this ordinance to any other new development.

SECTION III. Conflicting Ordinances. 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 October 1, 2015.

SIGNED AND SEALED this _____ day of _____, 2015, having been duly adopted by the Town Council for the Town of Fort Mill on the _____ day of _____, 2015.

Public Hearing #1: July 27, 2015
First Reading: August 10, 2015
Public Hearing #2: August 10, 2015
Second Reading: August 24, 2015

TOWN OF FORT MILL

Danny P. Funderburk, Mayor

LEGAL REVIEW

ATTEST

Barron B. Mack, Jr, Town Attorney

Dana Powell, Town Clerk

DISCOUNT RATE OPTIONS ➡

Maximum Allowable Discount Rate	Approved 08/24/2015	GO Bond 20 Year @ 4%
0% Parks & Recreation	100% Parks & Recreation	
0% Fire Protection	50% Fire Protection	\$ 11,200,000
0% Municipal Facilities	50% Municipal Facilities	
0% Transportation	100% Transportation	\$ 824,410

↑ GROSS & NET IMPACT FEES ON SAMPLE PROJECTS

GROSS & NET IMPACT FEES ON SAMPLE PROJECTS										Approved 08/24/2015					GO Bond	
Name	Project Type	Unit of Meas.	Units	Blgd Volume	Gross	% BV	Net	% BV	Gross	Discount	% BV	Net	Discount	% BV	Total Dtd 2015	
Courtyard by Marriott	Hotel	Rooms	129	\$ 19,488,899	\$ 153,996	0.79%	\$ 106,451	0.55%	\$ 25,461	-83.5%	0.13%	\$ (22,085)	114.3%	-0.11%	\$ 179,528	
Hampton Inn	Hotel	Rooms	102	\$ 11,663,159	\$ 121,764	1.00%	\$ 97,442	0.84%	\$ 20,132	-83.5%	0.17%	\$ (4,191)	103.4%	-0.04%	\$ 107,439	
Holiday Inn Express®	Rooms	Rooms	87	\$ 6,572,349	\$ 103,858	1.58%	\$ 91,796	1.40%	\$ 17,121	-83.5%	0.26%	\$ 5,059	95.1%	0.09%	\$ 60,353	
Sleep Inn	Hotel	Rooms	100	\$ 5,469,798	\$ 119,377	2.18%	\$ 109,520	2.00%	\$ 19,737	-67.5%	0.36%	\$ 9,880	91.7%	0.18%	\$ 50,387	
Kingsley 46	Office (50,001-100,000 SF)	Square Feet	60,000	\$ 7,748,056	\$ 236,671	3.09%	\$ 227,755	2.94%	\$ 77,266	-67.5%	1.00%	\$ 65,370	72.7%	0.84%	\$ 99,092	
Lash Group	Office (>200,001 SF)	Square Feet	254,402	\$ 33,979,966	\$ 836,672	2.46%	\$ 739,044	2.12%	\$ 287,125	-65.7%	0.85%	\$ 189,548	77.5%	0.56%	\$ 313,017	
LPL Financial	Office (>200,001 SF)	Square Feet	466,536	\$ 117,610,619	\$ 1,954,394	1.30%	\$ 1,183,628	1.01%	\$ 526,657	-65.7%	0.45%	\$ 175,932	88.5%	0.15%	\$ 1,083,405	
Harvis Teeter	Supermarket	Square Feet	53,365	\$ 6,405,538	\$ 110,421	6.40%	\$ 401,544	6.27%	\$ 20,365	-95.0%	0.34%	\$ 11,799	97.1%	0.18%	\$ 54,572	
Wal-Mart Neighborhood Market	Supermarket	Square Feet	41,439	\$ 4,862,110	\$ 301,443	6.20%	\$ 294,302	6.05%	\$ 15,784	-94.8%	0.32%	\$ 8,642	97.1%	0.18%	\$ 44,789	
Family Dollar	Free Standing Discount Store	Square Feet	8,300	\$ 952,769	\$ 44,481	4.67%	\$ 43,599	4.58%	\$ 5,691	-87.1%	0.65%	\$ 4,809	89.0%	0.50%	\$ 7,158	
Family Trust FCU	Drive in Bank	Square Feet	5,000	\$ 1,600,000	\$ 55,661	3.48%	\$ 53,544	3.35%	\$ 8,293	-85.1%	0.52%	\$ 7,464	86.6%	0.47%	\$ 30,600	
408-426 US Hwy 21 Bypass	General Retail/Warehouse	Square Feet	15,000	\$ 1,151,900	\$ 56,052	4.87%	\$ 55,775	4.80%	\$ 8,137	-85.5%	0.71%	\$ 7,360	86.6%	0.64%	\$ 10,611	
Shoppes at Clibbourne	General Retail (<50,000 SF)	Square Feet	3,500	\$ 427,046	\$ 32,295	7.56%	\$ 31,827	7.45%	\$ 3,465	-89.5%	0.81%	\$ 2,997	90.7%	0.70%	\$ 6,124	
Chick-Fil-A	Fast Food w/ Drive Thru	Square Feet	4,300	\$ 694,407	\$ 121,054	17.74%	\$ 120,565	17.33%	\$ 7,405	-93.9%	1.01%	\$ 6,757	94.7%	0.97%	\$ 14,094	
Future Elementary School	Elementary School	Square Feet	105,000	\$ 19,273,800	\$ 232,515	1.21%	\$ 232,155	1.21%	\$ 35,631	-84.1%	0.18%	\$ 45,956	85.1%	0.16%	\$ 84,784	
Future Middle School	Middle School	Square Feet	158,000	\$ 29,002,480	\$ 306,613	1.06%	\$ 306,613	1.06%	\$ 45,956	-85.1%	0.16%	\$ 45,956	85.1%	0.16%	\$ 84,784	
Future High School	High School	Square Feet	330,000	\$ 60,574,800	\$ 571,918	0.94%	\$ 571,918	0.94%	\$ 74,274	-87.0%	0.72%	\$ 74,274	87.0%	0.72%	\$ 87,046	
Greens at Fort Mill	Apartment	Dwelling Units	64	\$ 7,579,246	\$ 116,911	1.54%	\$ 98,249	1.30%	\$ 54,193	-53.6%	0.72%	\$ 35,536	69.6%	0.47%	\$ 58,739	
River Crossing Senior Apartments	Apartment	Dwelling Units	255	\$ 30,206,112	\$ 465,818	1.54%	\$ 380,762	1.26%	\$ 215,994	-53.6%	0.71%	\$ 130,887	71.5%	0.43%	\$ 278,253	
Single-Family Residence	Residence	Dwelling Units	1	\$ 376,592	\$ 3,454	0.92%	\$ 3,454	0.92%	\$ 1,822	-47.2%	0.46%	\$ 1,822	47.2%	0.46%	\$ 3,473	

Note: "Gross Fee" (Actual Fee Per Impact Fee Ordinance), "Net Fee" (Gross Fee Minus Building Permit & Plan Review Fee Reductions), "SBV" (Fee Amount as a % of the Total Building Valuation Per ICC Building Valuation Data).

**PROJECTED RESIDENTIAL COLLECTIONS
(2016-2025)**

		Maximum Allowable	Approved 08/24/2015
Parks & Recreation	Total Projected Collections		Total Projected Collections
Single-Family	3,639	\$	5,176,478
Multi-Family	1,234	\$	815,686
Townhomes	510	\$	725,475
Subtotal	5,383	\$	6,717,639
Fire Protection	Total Projected Collections		Total Projected Collections
Single-Family	3,639	\$	1,105,856
Multi-Family	1,234	\$	174,233
Townhomes	510	\$	154,984
Subtotal	5,383	\$	1,435,073
Municipal Facilities	Total Projected Collections		Total Projected Collections
Single-Family	3,639	\$	2,939,876
Multi-Family	1,234	\$	447,488
Townhomes	510	\$	398,004
Subtotal	5,383	\$	3,785,377
Transportation	Total Projected Collections		Total Projected Collections
Single-Family	3,639	\$	3,448,062
Multi-Family	1,234	\$	816,748
Townhomes	510	\$	294,918
Subtotal	5,383	\$	4,559,717
TOTAL RESIDENTIAL	5,383	\$	16,397,836
			6,606,110

Agenda Item Summary

Ordinance # / Resolution#:	Discussion Item
Contact Person / Sponsor:	Steve Willis
Department:	Admin
Date Requested to be on Agenda:	October 26, 2015

Issue for Consideration:

Cost estimates on fire trucks/ Fleet Operations facility.

Points to Consider:

The bids were opened on October 19th for the fire truck purchase. The total amount of bond funding needed is \$6,635,199. Please note that both Indian Land and Pleasant Valley fire departments will be adding other funds for pumper-tankers. Also, the Council has previously endorsed the concept of using the proceeds from the sale of existing surplus apparatus to fund building improvements (additional truck bays) at the Rich Hill fire station.

We have an engineering cost estimate for the Fleet Operations facility. I need to stress this is not a bid price. Our plan would be to utilize the Construction Manager At Risk model to build this facility. That price is \$3,728,185. This is just the Fleet Operations facility and does not include a Public Works Administration facility or EMS facility.

The CAFR has not been finalized and we will not have our debt ceiling numbers until late next week.

This will be referred to the Administration Committee for review and recommendation. I do need to note that we do have a time constraint on ordering the fire trucks to avoid a price increase on January 1st.

Funding and Liability Factors:

Outlined above.

Council Options:

Information only at this time. We will also work with McNair to obtain bond cost estimates.

Staff Recommendation:

To be determined.

Committee Recommendation:

To be determined.

Department Name	2015 Purchase
Antioch	Engine
Bell Town	Engine
Buford	Engine
Camp Creek	Engine
Charlotte Rd/Van Wyck	Rescue
Elgin	Rescue
Flat Creek	Engine
Gooches	Rescue
Heath Springs	Engine
Indian Land (UPGRADE)	Pumper/Tanker
Kershaw	Engine
McDonald Green	Engine
Pleasant Valley (UPGRADE)	Pumper/Tanker
Rich Hill	Funds for Building
Riverside	Engine
Shiloh Zion	Engine
Tradesville	Tanker
Unity	Rescue
Lancaster	Rescue
Total	10 Engines
	5 Rescues
Note: Pleasant Valley/Indian Land Upgrade-Devel. Fnds	<u>3 Tankers</u>
	18 Total

Lancaster County Total Package Breakdown

1. Ten (10) Custom Cab Engines (combined purchase)	\$476,300.00
	<u>X 10</u>
	4,763,000.00
100% Advance Payment Discount	<u>(182,281.00)</u>
	\$4,580,719.00

2. Two (2) Custom Pumper/Tankers (combine purchase)	\$476,272.00
	<u>X 2</u>
	952,544.00
100% Advance Payment Discount	<u>(35,045.00)</u>
	\$917,499.00

3. One (1) Dry Side Tanker (combine purchase)	\$264,326.00
100% Advance Payment Discount	<u>(7,526.00)</u>
	\$256,800.00

4. Five (5) Rescues (combine purchase)	\$272,337.00
	<u>X 5</u>
	\$1,361,685.00
100% Advance Payment Discount	<u>(77,605.00)</u>
	\$1,284,080.00

Net Due Pierce 30 Days from Purchase Order	\$7,039,098.00
---	-----------------------

5. Pleasant Valley Pumper/Tanker (Fee District Contrib.)	(\$ 201,949.50)
6. Indian Land Pumper/Tanker (Fee District Contrib.)	(\$ 201,949.50)

****NOTE: Pleasant Valley and Indian Land Fee Districts
request Development Funds be used to pay
these contribution amounts.

TOTAL NEEDED FOR THE BOND TO FINANCE PURCHASE	\$6,635,199.00
--	-----------------------



**Lancaster
County
Fire Rescue**

PO Box 1809
Lancaster, SC
29721

Business Phone
803-283-8888

Fax
803-283-6333

E-mail
L.C.F.R.E@compcoinc.net



Proud and Progressive

BIDDER'S SCHEDULE

BID ID - APPARATUS 2015 BID
USE THIS SHEET FOR PRICING.

<u>ITEM</u>	<u>PRICE</u>
Custom Cab Engine (Priced per unit - 10 to be purchased)	\$477,300.00 / \$476,300.00 \$4,763,000.00
Custom Cab Pumper/Tanker 1700 gallon (Priced per unit - 2 to be purchased)	\$489,872.00 / \$476,272.00 \$952,544.00
Commercial Chassis 2000 gallon Tanker (Priced per unit - 1 to be purchased)	\$280,326.00 / \$264,326.00
Commercial Chassis Rescue Truck (Priced per unit - 5 to be purchased)	\$274,337.00 / \$272,337.00 \$1,361,685.00
Custom Cab Engine + Commercial Chassis 2000 gallon tanker + Custom 1700 gallon pumper/tanker + Commercial Chassis Rescue Truck Price if your company is awarded the bid for all three apparatus. This will be a total award package priced at 10 engines, 5 rescue trucks, 2 custom pumper tankers and 1 commercial tanker.	\$7,341,555.00

Note: This allows for discounting if all units are purchased from one manufacturer or entity.

DO NOT Add Sales Tax - \$300.00 SC Sales Tax will be added to each bid price for each unit purchased.

Were exceptions taken to any of the YES NO (circle one)
specifications?

DELIVERY WILL BE MADE WITHIN 300 DAYS AFTER
RECEIPT OF PURCHASE ORDER.

BIDDER'S SIGNATURE _____

PRINT NAME OF COMPANY AND NAME OF BIDDER:
Spartan Fire & Emergency Apparatus, Inc.

ADDRESS 319 Southport Road, Roebuck, SC 29376
TELEPHONE NUMBER 864-582-2376

DATE October 19, 2015

**THIS FORM MUST BE PART OF THE BID SUBMISSION. FAILURE TO INCLUDE THIS
FORM MAY RESULT IN BID REJECTION DUE TO INCOMPLETE SUBMISSION.**

Lancaster County Fleet Maintenance Facility

Lancaster County
Lancaster, SC
Conceptual Budget

April 27, 2015

Budget Breakdown

GSF 22,100

	TOTAL	COST PER SF
Site (6.6 Acres)	\$1,215,244	\$54.99
Offsite Improvements Allowance	\$450,392	\$20.38
Fleet Maintenance Facility (22,100 SF)	\$1,550,422	\$70.15
TOTAL	\$3,216,059	
General Conditions (9 Months)	\$198,030	
Contingency - 5%	\$170,704	
Project Fee - 4%	\$143,392	
RECOMMENDED BUDGET	\$3,728,185	\$168.70

Agenda Item Summary

Ordinance # / Resolution#:	Discussion/ Information Item
Contact Person / Sponsor:	Steve Willis
Department:	Administration
Date Requested to be on Agenda:	October 26, 2015

Issue for Consideration:

Information on grant application.

Points to Consider:

This is a 100% grant with no local match.

Lancaster County is the applicant of record as it affects multiple agencies.

The grant was written by the School District and will benefit the Sheriff's Office and Solicitor's Office. Palmetto Citizens Against Sexual Assault is also affected.

This grant is a nationally competitive grant. We are applying under the rural community component.

Information from Dr. Paul McKenzie is attached.

Funding and Liability Factors:

While there is no local match the grant will fund a deputy position if awarded. Other positions are in the Solicitor's Office.

Council Options:

Approve or reject the application.

Staff Recommendation:

Due to time constraints this grant was applied for prior to contacting me. Nonetheless, I recommend approval of the grant application.

Committee Recommendation:

N/A

GRANT TRACKING UPDATE

Funding Source: Office of Violence Against Women (DOJ)

Grant Initiative: Sexual Assault Justice Initiative

Estimated range of Awards: Approximately 8 Grants

Available Funds: \$400,000 for two years

Deadline: October 13, 2015

Focus of Funding:

- The Sexual Assault Justice Initiative (SAJI) will support enhanced community responses to sexual violence with an **emphasis on prosecution**. This initiative involves the **development and implementation of performance measures** that look beyond just conviction rates and reflect promising practices for prosecuting sexual assault.
- Each of the eight sites will receive funding and **technical assistance to implement a set of performance measures** that link to best practices and account for victims' and other stakeholders' perceptions of retributive, restorative, and procedural justice.
- The grant requires a partnership between

Lancaster County Sheriff's Office
6th Circuit Solicitor's Office
Palmetto Citizens Against Sexual Assault
- Grant funds will be employed for the primary functions:

Full-Time Solicitor designated to prosecute sexual assault cases
Full-Time Deputy designated to investigate sexual assault cases
Part-Time Victim Advocate to provide training, support and direct services
Extensive training conducted to improve investigation and prosecution outcomes
- An **independent evaluator** will also be selected by the National Institute of Justice to assess the impact of the measures on case retention and attrition, charging decisions, and other outcomes such as victim safety and satisfaction. The focus of the independent evaluation will not be on how effective each prosecutor's office is, but rather, on how well the performance measures capture practices defined by the field as enhancing prosecutorial success, with "success" defined more broadly than achieving a conviction.

Agenda Item Summary

Ordinance # / Resolution#:	Discussion/ Information Item
Contact Person / Sponsor:	Sheriff Barry Faile
Department:	Sheriff's Office
Date Requested to be on Agenda:	County Council – October 26, 2015

Issue for Consideration:

Approval for 2015 Department of Public Safety Grant.

Points to Consider:

This is an state public safety grant. It is a 100% grant with no local match.

The Sheriff's Office is serving as the host agency but does not get to utilize all the grant funding.

The Sheriff will receive exclusive use of \$7,000 but the remaining \$21,000 is split between the agencies within the Sixth Judicial Circuit.

Funding and Liability Factors:

The grant is \$28,000 in total.

The Sheriff's Office will receive \$7,000 and the remainder will be split as needs are determined by the agency heads.

This is a reimbursable grant. Funding will come from the grant accounts and reimbursements credited accordingly.

Council Options:

This is for information only. This is a 100% state grant and is administered through the Sheriff's Office. As always we like to keep Council informed of these items.

Staff Recommendation:

Proceed as proposed by Sheriff Faile.

Committee Recommendation:

N/A.



South Carolina Department of Public Safety

Office of Highway Safety and Justice Programs

September 17, 2015

Sheriff Barry Faile
Lancaster County Sheriff's Office
2740 Dawson Drive
Chester, SC 29706

Re: Highway Safety Grant Number 2JC16006

Dear Sheriff Faile:

I am pleased to provide you, as the Host Agency for the 6th Judicial Circuit Law Enforcement Network, with a grant award approved by this office in the amount of \$28,000 (\$7,000 for the Host Agency and \$21,000 for LEN Support), with funding beginning October 1, 2015. In order to complete the contract for this award, it is necessary for you, as the Sheriff, to return the original mini-grant award with an original signature within 30 days. The signed original should be sent to:

Dr. Ed Harmon, Assistant Director
Office of Highway Safety
S. C. Department of Public Safety
P. O. Box 1993
Blythewood, South Carolina 29016

A copy of the Request for Payment form is available online at www.scdps.gov/ohsjp. This form is to be completed and submitted quarterly. The first Request for Payment for this grant is due February 1, 2016, for the quarter ending December 31, 2015. Timely submission of the request will ensure that reimbursement of eligible claims filed against this grant is not hindered.

Also included are the Terms and Conditions and the approved budget. Please review them carefully as returning the signed grant award indicates your willingness to accept the Terms and Conditions placed upon you as the subgrantee and the budget as presented.

Congratulations on your network's funding for FFY 2016. Our staff looks forward to working with you in our joint mission to reduce the incidence and severity of traffic crashes in our state. Please contact your assigned Law Enforcement Liaison, Bryan McDougald, toll free at 1-877-349-7187, if you have any questions regarding this award.

Sincerely,

Phil Riley
Director

Enclosures

cc: Capt. Jeff Hilton
Bryan McDougald
Grant File

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF HIGHWAY SAFETY AND JUSTICE PROGRAMS
P. O. BOX 1993
BLYTHEWOOD, SOUTH CAROLINA 29016

MINI-GRANT AWARD

Subgrantee: Lancaster County Sheriff's Office

Grant Period: 10/1/2015 – 9/30/2016


Date of Award: October 1, 2015

Amount of Award: \$28,000


Mini-Grant Number: 2JC16006

In accordance with the provisions of the Highway Safety Act of 1966, 72 Stat. 885, as amended, CFDA No. 20.600, the S. C. Department of Public Safety hereby awards to the foregoing Subgrantee, a mini-grant in the amount shown above for the continuation of the 6th Judicial Circuit Law Enforcement Network and within the purposes and categories authorized for the Highway Safety grants.

The grant shall become effective as of the date of the award, contingent upon the return of the original of this form to the Office of Highway Safety and Justice Programs, signed by the Subgrantee in the space provided below. This award must be accepted within 30 days, and such progress and other reports required by the S. C. Department of Public Safety must be submitted to the Office of Highway Safety and Justice Programs in accordance with regulations.



Phil Riley, Director
Office of Highway Safety
and Justice Programs



Ed Harmon, Assistant Director
Office of Highway Safety
and Justice Programs

Acceptance of Grant Award:



Signature of Sheriff

Signature – Other Required Official

THIS MINI-GRANT AWARD IS SUBJECT TO TERMS AND CONDITIONS ATTACHED.

Agenda Item Summary

Ordinance # / Resolution#:	Discussion/ Update Item
Contact Person / Sponsor:	Vice-Chairman Carnes/ Steve Willis
Department:	Council/ Admin
Date Requested to be on Agenda:	October 26, 2015

Issue for Consideration:

Update on bridge in Regent Park

Points to Consider:

Work continues on the bridge. The work is being overseen by the engineer selected by Public Works Director Jeff Catoe.

The Town of Pineville still is not consenting to an emergency access easement.

The developers will see if it would make a difference if the easement is in the name of Lancaster County rather than the HOA. The easement would only be triggered by a vote of County Council that an emergency situation exists.

Council lacks eminent domain authority in North Carolina to dictate an emergency access point.

The upcoming sale of the golf course may provide an alternate access point.

A single ingress/ egress point for that many houses remains a concern.

Funding and Liability Factors:

N/A – private funding is paying for this.

The single access point is a liability concern if an alternate emergency access cannot be obtained.

Council Options:

This is just an update at this point. No action is needed.

Staff Recommendation:

N/A

Committee Recommendation:

N/A

Agenda Item Summary

Ordinance # / Resolution#:	Discussion Item
Contact Person / Sponsor:	Steve Willis
Department:	Administration
Date Requested to be on Agenda:	October 26, 2015

Issue for Consideration:

Board Makeup – Lancaster HOME Consortium

Points to Consider:

The consortium is called the Lancaster HOME Consortium because we are the lead entity but it is composed of 3 of the 4 counties in the COG. York County declined to join but both Rock Hill and Fort Mill have joined.

The standard Board makeup is one person from the county, one from the largest city in each county, and one person at-large from each county as selected by the COG Board. In the case of York County we would include both Rock Hill and Fort Mill plus the member selected by the COG as the York At-large member.

As we are the lead entity, I need to verify the proposed Board composition is OK with Council.

Funding and Liability Factors:

N/A; the COG handles this for us.

Council Options:

Approve the proposed Board composition or propose a different Board makeup to HUD.

Staff Recommendation:

Approve the standard Board makeup.

Committee Recommendation:

N/A as this is just a discussion item at this time.

Agenda Item Summary

Ordinance # / Resolution#: Discussion Item Only: UDO Rewrite Update
Contact Person / Sponsor: Penelope G. Karagounis
Department: Planning
Date Requested to be on Agenda: October 26, 2015

Issue for Consideration:

Unified Development Ordinance update for the four community meetings held in September and October.

Points to Consider:

Over the past 2.5 weeks, four community meetings were held in Buford, Kershaw, Lancaster, and Indian Land and approximately 105 people participated. Of those attending, 11% were from both the Kershaw and Lancaster communities, 18% were from the Buford community, and 60% were from the Indian Land area. The overall response was positive. Information about the meetings was promoted in newspapers (Lancaster News, Carolina Gateway, Kershaw News Era, and the Fort Mill Times), the Indian Land electronic billboard, websites, and television.

Comment sheets are being submitted online and the maps and documents are available on both the Lancaster County's website and Catawba Regional Council of Governments' website. Approximately forty comments have been received from the community meetings, online, phone calls, and internal review. These do not include areas noted on preliminary working maps at the community meetings that did not submit a comment sheet. Review of these areas is currently underway and responses to comments are being drafted.

UDO chapter are being finalized and will be reviewed by staff in October and will be shared with the Planning Commission at the November workshop(s). Focus groups and property owner meetings will be held in November and early December. Final UDO chapters will be shared with the Planning Commission at the December workshop. Public hearings for the UDO Project will be begin in January 2016.

Funding and Liability Factors:

N/A

Council Options:

N/A

Recommendation:

N/A

Agenda Item Summary

Ordinance # / Resolution#: Discussion Item Only: Blueways Plan Awarded

Contact Person / Sponsor: Penelope G. Karagounis, Lancaster County Planning Director *PGK*

Department: Planning

Date Requested to be on Agenda: October 26, 2015

Issue for Consideration: Kara Drane from the Catawba Regional Council of Governments applied for a grant application with the National Park Service Rivers, Trails, and Conservation Assistance Program. On October 1, 2015 we received notification that the *Catawba Regional Blueways* has been selected as a new project, which will receive technical assistance in the Fiscal Year of 2016 (October 2015-September 2016). We are extremely excited to be awarded this grant so we can collaborate with the National Park Service Rivers, Trails, and Conservation Assistance Program to support this community-based initiative.

The purpose of the Blueways Plan is to coordinate planning efforts on all waterways to enhance recreational opportunities, economic development, nature based tourism and environmental stewardship. Also, the planning efforts will include linkages to parks and greenways and incorporate all community partners.

Points to Consider: This grant award is for technical and planning assistance for the Catawba Regional Blueways Plan. The technical assistance will help facilitate the development of a Blueways Plan along the Catawba River. I will serve and participate as a member of the Regional Blueways Steering Committee by working with the Catawba Regional Council of Governments and the National Park Service. Other Lancaster County members on the steering committee is Bob Bundy, Lancaster County Council Chairman; Sherri Gregory, Lindsey Pettus Greenway Steering Committee President/Carolina Thread Trail Executive Board; and Barry R. Beasley, Katawba Valley Land Trust and Lindsey Pettus Greenway Steering Committee.

Through the development of the Catawba Regional Blueways Plan, ongoing local efforts can be coordinated across jurisdictions and a local regional blueways coalition can implement common goals for conservation, stewardship, outdoor recreation, and health and wellness.

Funding and Liability Factors: The National Park service assistance is contingent upon passage of the Congressional Budget and funding for the RTCA program. Assuming there are no funding difficulties, NPS, Rivers, Trails, and Conservation Assistance, (RTCA) staff person, Bill Lane will be working on this project with us.

In the future, Lancaster County will need to discuss financial obligations in establishing local efforts to implement these goals from the Catawba Regional Blueways Plan.

Council Options: N/A

Recommendation: N/A



National Park Service
U.S. Department of the Interior

NPS Southeast
Headquarters
100 Alabama Street SW
Atlanta, GA 30306

www.nps.gov

National Park Service News Release

Release Date: October 1, 2015

Contact: Deirdre Hewitt, 404-507-5691, deirdre_hewitt@nps.gov

National Park Service to Assist Local Recreation and Conservation Projects

ATLANTA – The National Park Service Rivers, Trails and Conservation Assistance Program (RTCA) selected eleven new communities and partnerships to receive technical and planning assistance. The assistance provided will promote the development of new outdoor recreation and economic opportunities and natural resource conservation.

"RTCA helps to engage stakeholders, plan the trail routes, create funding plans, and identify groups, individuals, businesses, local government officials, and nonprofits that will spearhead the project," said Mobile United Executive Director Katherine Pitman.

RTCA works with community groups, nonprofit organizations, tribal governments, and local, state, and federal government agencies to achieve locally-defined goals for natural resource conservation and outdoor recreation. RTCA also connects citizens with local agencies and organizations to create new parks, greenspace, and trails and protect important water resources.

Types of RTCA projects include outdoor preservation, rivers conservation, and the development of recreational trails and greenways. The RTCA network of planning professionals, landscape architects and community planners helps communities across the nation achieve on-the ground successes. RTCA personnel help local partners to make their rivers, trails, greenways and open spaces vital, life-enhancing parts of their communities. The RTCA program serves communities and neighborhoods throughout the southeast with offices in Atlanta, Sarasota, Fla, Mammoth Cave, KY, Natchez, Miss., Ocean Springs, Miss., and Chattanooga, Tenn.

One of several RTCA projects is the Crepe Myrtle Trail in Mobile, Alabama. The project will provide a corridor of dedicated paths and shared lanes that meander from Three Mile Creek, through downtown and to Dog River. The project will connect at least seven parks, and natural areas with recreational opportunities. "Through RTCA's involvement, the momentum and support behind the creation of a permanent Crepe Myrtle Trail is higher than it has ever been," said Katherine Pitman.

The new projects for Fiscal Year 2016 accepted by the RTCA Program are:

-more-

Florida:

Summer Haven River Restoration Project: The goal of the project is to restore the Summer Haven River by reestablishing the river depths, restoring tidal circulation which will protect the natural resources and expanding the outdoor recreation opportunities provided by the river. RTCA will work with project partners to identify potential funding sources to complete the sand removal and beach dune restoration, design community outreach and participation strategies. The project will engage local community stakeholders as well as identify and analyze issues and additional outdoor recreation opportunities that arise from the restoration of the river.

Kentucky:

Cave Region Trails Initiative: The vision of the Cave Regions Trail Initiative is to create a regional network of biking, hiking, walking, equestrian, and water trails to connect communities and make the Mammoth Cave area in southcentral Kentucky a more attractive destination and place to live. RTCA will assist project partners with organizational development and prioritizing project needs along with community outreach, greenway trail planning and helping to locate funding sources.

Bluegrass Regional Trails Phase II: RTCA will provide planning and technical assistance to Bluegrass Tomorrow, Inc. to help continue work on the Bluegrass Regional Trails. Phase II builds on earlier work of the project by expanding the alliance of project partners to include Woodford, Franklin and Owen Counties in the Bluegrass Region. The project will improve the health and wellness of the community as well as expand environmental, cultural and natural resource education, and enhance economic growth and sustainability for the citizens in the Bluegrass Region of Kentucky.

Three Corners Regional Trails (KY, TN, VA): The mission of the Three Corners Trails Committee is to develop a regional master plan for the four-county, three state area surrounding Cumberland Gap National Historical Park. The plan will focus on the development and promotion of numerous outdoor recreation possibilities and how they can be connected with hiking, biking, equestrian, off-highway vehicle and water trails. RTCA will assist the regional trails committee by helping inventory and map existing and proposed trail resources, developing partnerships, engaging new stakeholders, and identifying funding sources that could transform the Cumberland Gap region into a destination for all outdoor recreation trail users.

Mississippi:

Clinton Trails Master Plan: RTCA and the City of Clinton will work to create a trail network master plan for the city. This proposed plan will include over 20 miles of biking and walking trails that will connect the downtown area, including the campus of Mississippi College, to all parts of the city as well as to the Natchez Trace Parkway. NPS will assist with partnership and organizational building for the project, as well as vision and goal planning for the development and the implementation of the plan.

Village of Eden Strategic Plan: RTCA will work with the Village of Eden to develop a strategic plan to connect over 100 acres of parks, rivers, trails, and greenways throughout the Village of Eden and surrounding communities of Yazoo County, Miss. Working collaboratively with

RTCA staff, community members will inventory, map and create conceptual design plans for trails and open space areas of the Village of Eden, while also considering how to connect to surrounding communities via trails, greenways and blueways.

South Carolina:

Ninety Six Gateway Park and Greenway System: The RTCA will assist the town of Ninety-Six in developing 17 acres of open green space into a usable recreational green space that will include walking trails, an outdoor classroom, and pavilion for picnic spaces. This park will also serve as a gateway park to the Ninety Six National Historical Park. RTCA will help with facilitating public involvement along with developing an overall plan for the greenway system.

Catawba Regional Blueways Plan: This project will ultimately develop a Regional Blueways Plan through a coalition partnership that will serve to coordinate planning efforts on the identified waterways. The efforts of the project will serve to enhance recreational opportunities, economic development, nature based tourism and environmental stewardship through the counties and outlying areas along the Catawba. RTCA will assist with identifying and analyzing existing blueway issues and opportunities and inventorying and mapping of community resources. Staff will also look to define project vision and goals and help the project partners develop a steering committee.

Edisto River Recreational Management Plan: The project will create a comprehensive recreation management master plan for 62 miles of the Edisto River in Dorchester and Colleton Counties. As part of the recreation master planning process, RTCA and project partners will also conduct a feasibility study as well as organizational planning. Additional project elements of RTCA assistance will include assisting in public workshops, GIS mapping and helping to locate potential funding sources for trail implementation once the plan is complete.

Camden Lagoon Master Plan: The City of Camden and RTCA will collaboratively work together on a master plan for the former wastewater site that would transform the site into an environmental education campus, with outdoor education classrooms and center as well as creating other outdoor recreation opportunities. RTCA will help in gathering public outreach and input for the master plan, facilitating meetings, prioritizing objectives and identifying potential funding sources for the project.

Tennessee:

East Chattanooga Park Connector: The primary goal of the project is to create a connection between the Historic Glass Street community and Chickamauga & Chattanooga National Military Park. This new trail will provide infrastructure and physical activity opportunities, increase access to outdoor green spaces, and create a physical connection to a National Park. The trail will also yield positive public health, engage youth, and encourage economic growth in one of Chattanooga's economically challenged neighborhoods.

Loudon County Greenways: Loudon County Greenways Committee will implement over 100 miles of combined hiking, equestrian and water trails throughout Loudon County. RTCA will assist in the implementation strategy for the master plan as well as help to expand partnerships and stakeholder opportunities and facilitate public outreach meetings.

RTCA will also continue their work with Groundwork USA on projects in Atlanta and Jacksonville, Fla. The combined efforts of RTCA and Groundwork USA will help further the mission of Groundwork USA and bring about the sustained regeneration, improvement and management of the physical environment by developing community-based partnerships empowering people, businesses and organizations to promote environmental, economic and social well-being.

Groundwork Atlanta (GW-ATL): Continuing its successes of the previous year, RTCA and Groundwork Atlanta's launching strategy was approved by Groundwork USA and its 501c3 nonprofit status with State of GA and IRS was initiated. Also, the GW-ATL Board and officers were elected and the organizational bylaws adopted. GW-ATL is also in the process of hiring a new executive director to begin implementing great work in the west Atlanta community.

Groundwork Jacksonville (GW-JAX): RTCA and GW-JAX will continue to build on the accomplishments from 2015 for the upcoming year. Over the past year, GW-JAX received numerous grants for start-up funding, technical assistance and capacity building. In addition to selecting a new Executive Director for GW-JAX, the program has also received its 501c3 nonprofit status. Other accomplishments include developed initial strategies for a public market offering a variety of amenities for the community, facilitated local meetings to discuss a rail trail line in Jacksonville and launched the Green Team Youth Corp, which helped the GW-JAX in a variety of community based service projects.

In addition to the thirteen new projects, RTCA will work on nine new consultation projects in Florida, Kentucky, Mississippi, North Carolina, and Tennessee.

www.nps.gov

About the National Park Service. More than 20,000 National Park Service employees care for America's 408 national parks and work with communities across the nation to help preserve local history and create close-to-home recreational opportunities. Learn more at www.nps.gov

Agenda Item Summary

Ordinance # / Resolution#: Information Only
Contact Person / Sponsor: Penelope G. Karagounis
Department: Planning
Date Requested to be on Agenda: October 26, 2015

Issue for Consideration:

On October 1, 2015, the RFATS Technical Committee (of which I am a member), continued their discussion regarding area transit availability and noted how a potential adjustment to the CATS 43X (which operates in Ballantyne), might provide a transit option to assist with the increasing demand levels on US 521, particularly during the morning and evening peak driving periods.

During this meeting a representative from CATS outlined the typical evaluation process for considering such an operational change. Indian Land continues to reflect fairly rapid growth pressures and consideration of these types of alternatives may play a role in accommodating the considerable north / south traffic movement with greater efficiency.

There are multiple steps to be able to identify if this type of transportation alternative represents a workable option for Indian Land. Here are some of the key steps that will need to take place:

- Coordination with CATS and SCDOT
- Survey to identify potential users of the service and an overall estimate of ridership demand
- Operational and Safety Analysis
- Securing an appropriate park-n-ride location
- Operational Funding
- Commitment from Lancaster County

Points to Consider:

At this time we are just sharing some of the options that we are researching to help alleviate traffic on Highway 521. We would like for you all to be aware of the resources we have for the urbanized area of Indian Land, since we are part of the RFATS MPO.

Funding and Liability Factors:

N/A

Council Options:

N/A

Recommendation:

N/A



Budget Report to County Council

Month Ending September 30, 2015

Council Meeting October 26, 2015

Prepared by Kimberly Hill, Budget Analyst

This is an unaudited report to management and is intended for informational purposes only.

Contents:

Financial Highlights of the General Fund (GF)	2-4
Summary of all County Funds	5-8
GF Revenue & Expenditure Statement	9-11
GF Expenditures by Department	12-13

The monthly financial report reflects the unaudited financial activities of Lancaster County for the month ending September 30, 2015.

Total Original General Fund Budget: \$44,906,126

Total Amended General Fund Budget: \$45,380,673

Total Revenue Received September: \$1,362,096

Major Revenue Sources:

Building Permits	\$266,128
Vehicle Taxes	\$230,114
Charges-Ambulance	\$226,231
Road Improvement Fees	\$183,014
Register of Deeds Fees	\$71,093

Total Expenditures September: \$ 2,974,910

Major Expenditures:

Wages & Salaries	\$ 1,449,923
Fringe Benefits	\$ 564,987
Fleet Maintenance & Gasoline	\$ 116,344
General Utilities	\$ 89,735
Disposal Contract	\$ 110,026
Contractual Services	\$101,825

General Fund Budget Amendments

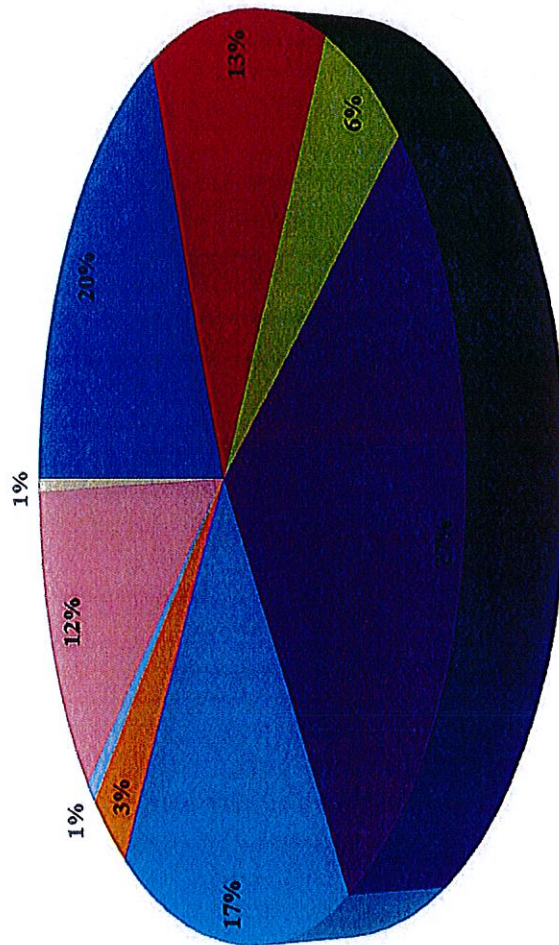
Purpose	Amount	Source
SCAC Deductible	\$100,000	Fund Balance
EMS Shed Replacement	\$350,000	Fund Balance
Vehicle- Economic Development	\$24,547	Fund Balance
Department of Economic Development	\$294,263	Transfer of Funds

Estimated Unassigned Fund Balance (GF): \$12,128,445 which is about 26.7% of the total amended GF budget.

Overall the GF expenditure budget reflects an ideal remaining percentage of 78%. Revenue collections are within 10% of estimates which is the typical trend during this time of year.

General Fund YTD Revenue by Source
 (Excludes Other Financing Sources)

- Property Tax
- Other Taxes
- Intergovernmental
- Licenses & Permits
- Charges for Services
- Fines & Fees
- Miscellaneous
- LOST Revenue
- Contributions & Donations



The County's total fund balance decreased during the month of September 2015 by **\$1,612,814** due to expenditures exceeding revenues. Expect this trend to continue until November or December.

	Current Year	Prior Year
Nonspendable	\$1,204,799	\$635,180
Restricted	\$2,030,373	\$2,404,351
Committed	-	-
Assigned	\$1,904,896	\$1,175,977
Unassigned	\$12,128,445	\$11,192,339
Fund Balance End of September	\$17,268,513	\$15,407,847

Fund balance terminology (GASB 54)

There are five components of fund balance:

1. Nonspendable-examples would include inventory and prepaid items
2. Restricted-externally enforceable by law, etc.
3. Committed-self-imposed limitations (requires ordinance-highest level)
4. Assigned-intended use limitations
5. Unassigned

Requests for Information

This financial report is designed to provide a general overview of Lancaster County's finances for all those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional information should be addressed to:

Kimberly Hill
Budget Analyst
khill@lanastercountysc.net

Lancaster County Summary of All Funds-September 30, 2015

1. GENERAL FUND

CATEGORY	BUDGET	YTD	%
Revenues	43,496,286	4,563,233	10.49%
Expenditures	-44,158,406	-9,880,788	22.38%
Other Financing Source	1,884,387	0	0.00%
Other Financing Use	-1,222,267	-98,088	8.03%
Revenues Over (Under) Expenditures	0	-5,415,643	

2. CAPITAL IMPROVEMENT FUND

CATEGORY	BUDGET	YTD	%
Revenues	1,498,000	94,455	6.31%
Expenditures	-1,498,000	-140,172	9.36%
Other Financing Source	0	0	
Revenues Over (Under) Expenditures	0	-45,718	

3. COURT MANDATED SECURITY

CATEGORY	BUDGET	YTD	%
Revenues	1,193,500	44,075	3.69%
Expenditures	-1,198,184	-206,661	17.25%
Other Financing Source	4,684	0	
Revenues Over (Under) Expenditures	0	-162,585	

4. VICTIMS SERVICES FUND

CATEGORY	BUDGET	YTD	%
Revenues	86,605	10,744	12.41%
Expenditures	-86,605	-13,256	15.31%
Other Financing Source	0	0	
Revenues Over (Under) Expenditures	0	-2,512	

5. E-911

CATEGORY	BUDGET	YTD	%
Revenues	727,550	22,228	3.06%
Expenditures	-671,459	-157,425	23.45%
Other Financing Use	-56,091	0	
Revenues Over (Under) Expenditures	0	-135,198	

6. COUNTY TRANSPORTATION COMMISSION FUND

CATEGORY	BUDGET	YTD	%
Revenues	5,220,600	4,219,847	80.83%
Expenditures	-5,394,400	-379,687	7.04%
Other Financing Source	173,800	0	
Revenues Over (Under) Expenditures	0	3,840,160	

7. INDIAN LAND FIRE PROTECTION DISTRICT FUND

CATEGORY	BUDGET	YTD	%
Revenues	495,000	2599.31	0.53%
Expenditures	-522,574	-138,793	26.56%
Other Financing Source	27,574	0	
Revenues Over (Under) Expenditures	0	-136,193	

8. LOCAL ACCOMODATIONS TAX FUND

CATEGORY	BUDGET	YTD	%
Revenues	30,000	12,464	41.55%
Expenditures	-30,000	-15,567	51.89%
Other Financing Source	0	0	
Revenues Over (Under) Expenditures	0	-3,103	

9. DEBT SERVICE FUND

CATEGORY	BUDGET	YTD	%
Revenues	1,859,931	94,476	5.08%
Expenditures	-1,859,931	-303,599	16.32%
Other Financing Source	0	0	
Revenues Over (Under) Expenditures	0	-209,123	

10. CAPITAL PROJECT SALES TAX FUND

CATEGORY	BUDGET	YTD	%
Revenues	8,500,000	1344	0.016%
Expenditures	-15,000	0	0.00%
Other Financing Use	-8,485,000	0	0.00%
Revenues Over (Under) Expenditures	0	1,344	

11. RECREATION FUND

CATEGORY	BUDGET	YTD	%
Revenues	1,387,503	369,856	26.66%
Expenditures	-2,447,396	-549,131	22.44%
Other Financing Source	1,059,893	0	
Revenues Over (Under) Expenditures	0	-179,275	

12. AIRPORT FUND

CATEGORY	BUDGET*	YTD*	%
Revenues	191,059	47,948	25.10%
Expenditures	-255,345	-66,390	26.00%
Other Financing Source	64,286	0	
Revenues Over (Under) Expenditures	0	-18,442	

13. PLEASANT VALLEY FIRE PROTECTION DISTRICT FUND

CATEGORY	BUDGET	YTD	%
Revenues	417,344	3,663	0.88%
Expenditures	-392,344	-50,313	12.82%
Other Financing Source	0	0	
Other Financing Use	-25,000	0	0.00%
Revenues Over (Under) Expenditures	0	-46,650	

14. DEVELOPMENT AGREEMENT FUND

CATEGORY	BUDGET	YTD
Revenues	0	427,000
Expenditures	0	0
Other Financing Source	0	0
Revenues Over (Under) Expenditures	0	427,000

COUNTY OF LANCASTER
REVENUE & EXPENDITURE STATEMENT

FY 2015-2016

09/01/2015 TO 09/30/2015

	<u>BUDGETED</u>	<u>CURRENT PERIOD</u>	<u>YEAR-TO-DATE INCLUDING ENCUMBRANCES</u>	<u>REMAINING BALANCE</u>	<u>PCT USED</u>
REVENUE:					
400 CURRENT PROPERTY TAXES	20,443,906.00	230,750.84	729,037.81	19,714,868.19	4
410 DELINQUENT PROPERTY TAXES	916,500.00	70,492.71	128,644.55	787,855.45	14
417 PROPERTY TAXES-STATE REIM	1,601,947.00	3,430.12	24,367.00	1,577,580.00	2
418 PROPERTY TAXES-LOST REV	5,700,000.00	0.00	561,484.48	5,138,515.52	10
419 MULTI COUNTY PILOT	15,000.00	0.00	0.00	15,000.00	0
422 OTHER TAXES	2,100,000.00	183,013.76	593,331.26	1,506,668.74	28
434 INTERGOVERNMENTAL- STATE	3,458,875.00	15,225.27	32,197.99	3,426,677.01	1
435 STATE AID TO LIBRARY	95,815.00	50,138.23	73,810.07	22,004.93	77
436 INTERGOVERNMENTAL- LOCAL	790,231.00	62,576.63	167,380.47	622,850.53	21
439 OTHER GOVERNMENTAL REV	0.00	0.00	3,727.47	-3,727.47	0
441 LICENSE- FRANCHISE	452,000.00	2,332.47	2,123.22	449,876.78	0
442 LIC & PERMITS- BLDG	2,968,200.00	280,619.00	927,766.00	2,040,434.00	31
444 LIC & PERMITS- PLANNING	24,100.00	8,120.00	11,740.00	12,360.00	49
446 LIC & PERMITS- ROD	900,000.00	93,372.31	304,780.46	595,219.54	34
448 LIC & PERMITS- CORONER	2,000.00	210.00	430.00	1,570.00	22
450 CHGS. FOR SVCS.- PUBLIC W	111,400.00	9,187.55	10,878.56	100,521.44	10
455 CHGS. FOR SVCS.- FEES	272,500.00	35,678.49	65,319.65	207,180.35	24
456 CHGS. FOR SVCS.- COPIES	14,650.00	2,051.00	5,050.75	9,599.25	34
457 CHGS. FOR SVCS.- OTHER	28,200.00	2,016.35	6,252.95	21,947.05	22
458 CHGS. FOR SVCS.- EMS	2,450,000.00	226,231.21	700,181.99	1,749,818.01	29
459 CHGS. FOR SVCS.- MISC	26,000.00	174.00	1,034.30	24,965.70	4
460 FINES & FEES-TEMP VEH TAG	3,000.00	150.00	540.00	2,460.00	18
461 FINES & FEES- COURTS	817,500.00	63,144.61	121,866.85	695,633.15	15
464 FINES & FEES- OTHER	10,000.00	500.00	1,700.00	8,300.00	17
465 FINES & FEES- OTHER	0.00	0.00	56.83	-56.83	0
466 FINES & FEES- OTHER	15,000.00	1,087.50	2,882.50	12,117.50	19
467 FINES & FEES- OTHER	20,000.00	1,900.00	6,150.00	13,850.00	31
468 FEES- BANK	68,250.00	5,648.02	18,654.92	49,595.08	27
470 CONTRIBUTION & DONATIONS	18,000.00	1,356.00	20,258.34	-2,258.34	113
471 LIBRARY DONATIONS	28,000.00	112.50	2,871.74	25,128.26	10
480 INTEREST INCOME	25,500.00	4,160.83	15,432.40	10,067.60	61
490 OTHER INCOME	92,212.00	6,280.50	16,175.60	76,036.40	18
491 OTHER INCOME	26,000.00	2,124.03	7,034.01	18,965.99	27
495 OTHER INCOME	1,500.00	12.40	70.80	1,429.20	5
TOTAL REVENUE	43,496,286.00	1,362,096.33	4,563,232.97	38,933,053.03	10

Please note, budgeted amounts in these statements may differ than those displayed in the report due to budget amendments. The financial system does not yet reflect those changes.

	<u>BUDGETED</u>	<u>CURRENT PERIOD</u>	<u>YEAR-TO-DATE INCLUDING ENCUMBRANCES</u>	<u>REMAINING BALANCE</u>	<u>PCT USED</u>
EXPENDITURE:					
500 WAGES	19,604,761.00	1,449,922.98	4,101,864.01	15,502,896.99	21
510 FRINGE	7,766,980.00	564,986.78	1,820,482.22	5,946,497.78	23
520 OTHER PERSONNEL EXPENDITU	327,500.00	11,523.33	56,613.64	270,886.36	17
530 TRAVEL, TRAINING, & DUES	394,536.00	38,865.09	110,123.49	284,412.51	28
540 SUPPLIES	410,018.00	36,604.77	85,231.50	324,786.50	21
541 POSTAGE	459,898.00	35,802.78	72,367.17	387,530.83	16
542 CLOTHING	201,536.00	8,681.91	25,681.77	175,854.23	13
543 SUPPLIES- LAUNDRY	220,000.00	11,704.37	41,754.03	178,245.97	19
544 SUPPLIES- PUBLIC WORKS	522,000.00	36,881.00	80,228.78	441,771.22	15
545 SUPPLIES- CUSTODIAL	20,000.00	627.20	1,358.61	18,641.39	7
547 SUPPLIES- ANIMAL FOOD	3,000.00	80.33	326.23	2,673.77	11
548 SUPPLIES- HAND TOOLS	20,000.00	3,006.63	6,229.08	13,770.92	31
549 SUPPLIES- WELCOME CENTER	4,000.00	278.54	472.21	3,527.79	12
550 EQUIPMENT- NON CAPITAL	105,000.00	547.26	5,189.54	99,810.46	5
551 EQUIPMENT- GENERAL	532,527.00	27,429.30	116,925.30	415,601.70	22
560 CAPITAL EQUIPMENT	555,775.00	918.64	918.64	554,856.36	0
570 UTILITIES	1,027,640.00	89,735.26	263,469.78	764,170.22	26
571 UTILITIES- TELEPHONE	521,290.00	44,166.45	103,415.54	417,874.46	20
580 RENT	7,500.00	0.00	3,570.00	3,930.00	48
581 RENT- BUILDING	78,766.00	6,325.00	21,400.00	57,366.00	27
582 RENT- EQUIPMENT	5,000.00	0.00	0.00	5,000.00	0
590 MAINTENANCE	1,743,100.00	116,343.87	312,503.55	1,430,596.45	18
591 MAINTENANCE- GENERAL	66,500.00	14,996.09	32,063.22	34,436.78	48
593 MAINTENANCE-SVC AGREEMENT	626,500.00	19,096.47	174,968.32	451,531.68	28
594 MAINTENANCE- BLDG	172,000.00	26,489.74	114,541.53	57,458.47	67
600 CONTRACTUAL SERVICES	1,965,534.00	101,825.48	390,579.25	1,574,954.75	20
604 PS-MEDICAL & PROFESSIONAL	662,151.00	64,923.84	160,603.36	501,547.64	24
605 CS- PRINTING	366,080.00	7,286.48	105,153.36	260,926.64	29
608 SC DEPT OF CORRECTIONS	25,000.00	1,935.00	3,705.00	21,295.00	15
612 CS-DISPOSAL CONTRACT	1,300,000.00	110,025.81	330,458.77	969,541.23	25
613 DEMOLITION EXPENSE	50,000.00	11,280.00	19,223.00	30,777.00	38
620 DIRECT ASSISTANCE	13,041.00	0.00	0.00	13,041.00	0
625 DIRECT ASSISTANCE	977,033.00	40,293.28	206,585.90	770,447.10	21
650 INSURANCE	874,059.00	0.00	840,753.64	33,305.36	96
670 ADVERTISING	82,700.00	3,901.54	7,362.08	75,337.92	9
680 FEE REIMBURSEMENT	600.00	0.00	0.00	600.00	0
690 SPECIAL PROJECTS	480,381.00	30,736.15	62,292.33	418,088.67	13
691 SP- PROMOTIONS	56,000.00	3,151.00	5,151.00	50,849.00	9
750 EQUIPMENT LEASE	142,000.00	10,924.64	24,566.56	117,433.44	17
760 GRANTS MATCH	338,000.00	-2,824.41	8,101.36	329,898.64	2

Please note, budgeted amounts in these statements may differ than those displayed in the report due to budget amendments. The financial system does not yet reflect those changes.

	<u>BUDGETED</u>	<u>CURRENT PERIOD</u>	<u>YEAR-TO-DATE INCLUDING ENCUMBRANCES</u>	<u>REMAINING BALANCE</u>	<u>PCT USED</u>
771 DS- LEASE PURCHASE	437,732.00	39,925.75	129,851.50	307,880.50	30
780 MISCELLANEOUS	50,000.00	3,510.00	8,415.00	41,585.00	17
781 MISCELLANEOUS	169,888.00	1,393.86	18,932.70	150,955.30	11
782 OVER/SHORT	570.00	124.35	-12.64	582.64	-2
783 DRUG FORFEITURE	0.00	305.67	642.56	-642.56	0
786 DONATIONS	3,000.00	1,177.62	6,725.03	-3,725.03	224
TOTAL EXPENDITURE	43,389,596.00	2,974,909.85	9,880,787.92	33,508,808.08	23
DEFICIENCY OF REVENUE BEFORE	106,690.00	-1,612,813.52	-5,317,554.95		-4,984
OTHER FINANCING SOURCE:					
801 TRANSFER IN	25,000.00	0.00	0.00	25,000.00	0
810 OFS FUND BALANCE	1,384,840.00	0.00	0.00	1,384,840.00	0
TOTAL OTHER FINANCING SOURC	1,409,840.00	0.00	0.00	1,409,840.00	0
OTHER FINANCING USE:					
950 TRANSFERS	1,516,530.00	0.00	98,087.75	1,418,442.25	6
TOTAL OTHER FINANCING USE	1,516,530.00	0.00	98,087.75	1,418,442.25	6
DEFICIENCY OF REVENUE AFTER	0.00	-1,612,813.52	-5,415,642.70		0

023KH
0141r17

Please note, budgeted amounts in these statements may differ than those displayed in the report due to budget amendments. The financial system does not yet reflect those changes.

COUNTY OF LANCASTER

FY 2015-2016

BUDGET REPORT BY DEPARTMENT

CURRENT PERIOD: 09/01/2015 TO 09/30/2015

IDEAL REMAINING PERCENT: 75 %

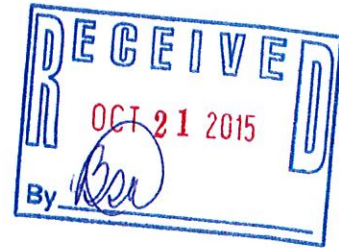
<u>ACCOUNT</u>	<u>BUDGETED EXPENDITURE</u>	<u>CURRENT EXPENDITURE</u>	<u>YEAR TO DATE EXPENDITURE</u>	<u>ENCUMBRANCE</u>	<u>REMAINING BALANCE</u>	<u>PCT</u>
005 NON-DEPARTMENTAL	1,384,909.00	66,805.73	946,235.56	0.00	438,673.44	32
011 COUNTY COUNCIL	1,199,349.00	76,628.72	160,330.34	6,550.00	1,032,468.66	86
012 COUNCIL TRANSFERS	1,124,179.00	0.00	0.00	0.00	1,124,179.00	100
014 DIRECT ASSISTANCE	844,124.00	3,805.28	133,609.90	0.00	710,514.10	84
021 ADMINISTRATOR	517,082.00	37,057.89	91,252.97	977.73	424,851.30	82
022 LEGAL TEAM	290,518.00	32,275.65	51,727.62	0.00	238,790.38	82
023 FINANCE	645,007.88	48,745.94	138,913.26	0.00	506,094.62	78
024 HUMAN RESOURCES	207,030.10	17,403.14	48,368.77	0.00	158,661.33	77
025 RISK MANAGEMENT	98,921.00	5,857.37	17,796.91	0.00	81,124.09	82
026 MIS	909,511.00	26,718.81	185,946.46	39,969.38	683,595.16	75
027 GIS	141,354.00	8,822.03	28,186.13	0.00	113,167.87	80
029 ZONING	382,866.00	33,364.77	78,002.51	0.00	304,863.49	80
031 BUILDING	948,920.00	52,520.92	164,111.75	0.00	784,808.25	83
032 PLANNING	550,636.20	32,802.92	95,433.05	16,850.39	438,352.76	80
035 ECONOMIC DEVELOPMENT	392,351.00	0.00	98,087.75	0.00	294,263.25	75
041 ASSESSOR	876,607.00	50,952.86	174,074.81	0.00	702,532.19	80
043 AUDITOR	379,711.68	26,824.79	87,580.58	0.00	292,131.10	77
044 TREASURER	378,158.00	29,309.34	76,470.05	0.00	301,687.95	80
045 DELINQUENT TAX	316,500.00	15,048.67	44,382.38	0.00	272,117.62	86
051 REGISTRATION & ELECT	312,716.00	9,814.61	56,518.01	0.00	256,197.99	82
060 REGISTER OF DEEDS	328,793.50	27,602.46	69,883.41	0.00	258,910.09	79
061 CIRCUIT COURT	82,607.00	3,748.94	9,637.08	0.00	72,969.92	88
063 CLERK OF COURT	469,479.99	43,300.41	103,253.46	0.00	366,226.53	78
064 FAMILY COURT	359,188.53	16,150.99	75,731.80	0.00	283,456.73	79
068 CORONER	417,684.72	29,426.42	87,340.35	0.00	330,344.37	79
069 PROBATE COURT	444,715.64	31,346.72	83,423.76	0.00	361,291.88	81
070 MAG-COUNTYWIDE	852,346.00	67,402.72	193,924.49	0.00	658,421.51	77
110 SHERIFF	7,779,872.32	540,510.71	1,565,319.09	15,258.11	6,199,295.12	80
111 SHER:DRUG ASSET FORF	0.00	305.67	642.56	0.00	-642.56	0
117 SHERIFF DPT- TOWN OF KERS	493,760.65	32,049.17	96,852.80	2,050.54	394,857.31	80
120 DETENTION CENTER	2,030,899.00	156,547.71	427,705.95	19,307.49	1,583,885.56	78
121 SCHOOL RESOURCE OFFICERS	113,152.00	12,620.15	26,457.01	0.00	86,694.99	77

Please note, budgeted amounts in these statements may differ than those displayed in the report due to budget amendments. The financial system does not yet reflect those changes.

130 COMMUNICATIONS	1,591,379.00	110,724.73	348,380.38	10,223.92	1,232,774.70	77
140 EMERGENCY MANAGEMENT	363,258.00	23,539.11	66,761.25	5,488.00	291,008.75	80
141 FIRE SERVICE	1,272,325.00	39,614.58	131,737.57	113,024.71	1,027,562.72	81
142 Town of KERSHAW- FIRE	140,996.00	9,037.69	29,835.24	0.00	111,160.76	79
144 LANC. COUNTY FIREFIGHTERS	987,692.00	67,251.45	193,782.53	2,250.00	791,659.47	80
153 LANCASTER EMS	5,995,931.00	490,174.12	1,381,928.33	31,196.47	4,582,806.20	76
202 ROADS & BRIDGES	2,483,581.00	168,613.30	436,048.55	123,370.00	1,924,162.45	77
210 FLEET OPERATIONS	542,564.00	36,934.69	110,048.05	22,050.40	410,465.55	76
251 BUILDING MAINTENANCE	1,473,895.00	126,913.19	327,303.81	82,678.26	1,063,912.93	72
310 LANDFILL-SOLID WASTE	56,852.46	3,686.32	6,948.85	4,000.00	45,903.61	81
312 SOLID WASTE COLLECT	2,879,759.00	191,838.01	451,496.10	147,144.51	2,281,118.39	79
318 ANIMAL SHELTER	156,218.92	11,444.58	36,828.53	0.00	119,390.39	76
330 HEALTH SERVICES	82,600.00	7,064.44	21,878.99	0.00	60,721.01	74
601 DEPT. OF SOCIAL SERVICES	64,210.00	5,334.09	13,258.17	0.00	50,951.83	79
602 D.S.S. FAMILY INDEP	58,330.00	4,463.06	14,023.94	0.00	44,306.06	76
610 VETERANS AFFAIRS	161,561.41	13,789.07	37,895.81	0.00	123,665.60	77
840 LIBRARY	1,159,867.00	88,790.16	231,277.59	0.00	928,589.41	80
999 LEASE	162,156.00	39,925.75	79,851.50	0.00	82,304.50	51
	<u>44,906,126.00</u>	<u>2,974,909.85</u>	<u>9,336,485.76</u>	<u>642,389.91</u>	<u>34,927,250.33</u>	<u>78</u>

023KH
n141r12p

Please note, budgeted amounts in these statements may differ than those displayed in the report due to budget amendments. The financial system does not yet reflect those changes.



October 19, 2015

Greetings,

Time Warner Cable's agreements with programmers and broadcasters to carry their services and stations routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements, but in order to comply with applicable regulations, we must inform you when an agreement is about to expire. The following agreements are due to expire soon and we may be required to cease carriage of one or more of these services/stations in the near future:

WGGs, WFMY, WCCB (SD & HD), WCCB D2, Azteca America, Youtoo, RFD HD, Gol TV (SD & HD), Pivot, Pivot On Demand, HBO (SD & HD), HBO West (SD & HD), HBO2 (SD & HD), HBO2 West, HBO Signature (SD & HD), HBO Signature West, HBO Family (SD & HD), HBO Family West, HBO Comedy (SD & HD), HBO Comedy West, HBO Zone (SD & HD), HBO Zone West, HBO Latino (SD & HD), HBO Latino West, HBO On Demand, Cinemax (SD & HD), Cinemax West (SD & HD), MoreMAX (SD & HD), MoreMAX West, ActionMAX (SD & HD), ActionMAX West, ThrillerMAX (SD & HD), ThrillerMAX West, OuterMAX (SD & HD), MaxLatino (SD & HD), 5StarMAX (SD & HD), MovieMAX (SD & HD), Cinemax On Demand, TV One (SD & HD), NHL Network (SD & HD), ReelzChannel (SD & HD), ShopHQ/EVINE Live (SD & HD), POP/TVGN (SD & HD).

In addition, from time to time we make certain changes in the services that we offer in order to better serve our customers. The following changes are planned:

On or after November 16th, HSN2 will be added to Variety Pass channel 484.

The new services listed below cannot be accessed on CableCARD-equipped Unidirectional Digital Cable Products purchased at retail without additional, two-way capable equipment: HSN2.

For more information about your local channel line-up, visit www.twc.com/programmingnotices.

Sincerely,

Director, Government Relations



October 7, 2015

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Steve Willis
County Administrator, Lancaster
101 N. Main St., 2nd Floor
Lancaster SC 29721

Dear Mr. Willis:

Time Warner Cable's agreements with programmers and broadcasters to carry their services and stations routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements, but in order to comply with applicable regulations, we must inform you when an agreement is about to expire. The following agreements are due to expire soon, and we may be required to cease carriage of one or more of these services/stations in the near future: Azteca America, YouToo, RFD HD, ReelzChannel (SD & HD), Go! TV (SD & HD), Pivot, Boomerang, Boomerang Espanol, Cartoon Network (SD & HD), Cartoon Network Espanol, CNN (SD & HD), CNN Espanol, HLN (SD & HD), TBS (SD & HD), TCM (SD & HD), TNT (SD & HD), truTV (SD & HD), HBO (SD & HD), HBO West (SD & HD), HBO2 (SD & HD), HBO2 West, HBO Signature (SD & HD), HBO Signature West, HBO Family (SD & HD), HBO Family West, HBO Comedy (SD & HD), HBO Comedy West, HBO Zone (SD & HD), HBO Zone West, HBO Latino (SD & HD), HBO Latino West, HBO On Demand, Cinemax (SD & HD), Cinemax West (SD & HD), MoreMAX (SD & HD), MoreMAX West, ActionMAX (SD & HD), ActionMAX West, ThrillerMAX (SD & HD), ThrillerMAX West, OuterMAX (SD & HD), MaxLatino (SD & HD), 5StarMAX (SD & HD), MovieMAX (SD & HD), Cinemax On Demand, Jewelry TV (SD & HD), TV One (SD & HD), NHL Network (SD & HD), NHL Center Ice (SD & HD).

From time to time, Time Warner Cable makes certain changes in the services that we offer in order to better serve our customers. The following changes are planned:

On or after October 13th, TWC SportsChannel will be made available on channel 77 in addition to channel 323.

On or after October 20th, Jewish Life TV will be added to Variety Pass / Preferred TV channel 469.

The new services listed below cannot be accessed on CableCARD-equipped Unidirectional Digital Cable Products purchased at retail without additional, two-way capable equipment: Jewish Life TV.

For more information about your local channel line-up, visit www.twc.com/programmingnotices.

If you have any questions or concerns, please do not hesitate to call me at 803-251-5320.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ben Breazeale'.

Ben Breazeale
Director of Government Relations
Time Warner Cable, South Carolina

Aviation Benefits Everyone

Methodology

There is a strong relationship between South Carolina's economy and aviation. The state's system of airports is essential in the global market place. Airports in South Carolina have helped to both lead and sustain growth and economic diversification. Airports support the state's economy and are also economic generators. Residents, businesses, and visitors rely on the airport system to support health, welfare, and safety needs. South Carolina's military airfields are also important to our national security.

South Carolina is served by a diversified system of airports. The state's 6 commercial service and 54 general aviation airports are essential underpinnings to South Carolina's diversified business base, its growing population, and its burgeoning tourism industry. In addition, South Carolina is home to four busy military airfields. Commercial aviation includes all scheduled airline flights, charter flights, and flights flown by air cargo companies. All other flights by civilian aircraft are classified as general aviation. Operations by military aircraft constitute the remainder of the state's annual aviation activity.

A methodology approved by the Federal Aviation Administration (FAA) was used to calculate the economic impacts associated with South Carolina's civilian airport system and its four military airfields. Airport related economic impacts were identified for three categories: direct, indirect, and multiplier.

Direct impacts are those associated with on-airport employers, business, and tenants. Direct impacts occur as a result of the provision of aviation services. Indirect impacts are those tied to spending by visitors who arrive in South Carolina through one of the public commercial or general aviation airports. As direct and indirect impacts are released into the local, regional and statewide economies, additional multiplier impacts are created. The economic impacts created by the multiplier effect re-circulate until the benefits ultimately leak outside South Carolina. Multipliers that are specific to South Carolina were used to complete the economic impact analysis.



South Carolina's Total Annual Economic Benefits from Aviation



Total Employment	65,533 Jobs
Total Payroll	\$1.9 billion
Total Economic Activity	\$4.3 billion

South Carolina also realizes additional tax benefits from aviation. When taxes on fuel, personal property, and income are converted, airports, airlines, aviation related activities and those employed by aviation contribute about \$23.6 million to the tax base of the state. Fuel taxes and property taxes alone account for an estimated \$18.9 million in annual tax receipts for the state and its counties. From a state perspective, it is projected that approximately 12 percent of the taxes being collected from aviation fuel and property taxes will be returned to the state's aviation fund.

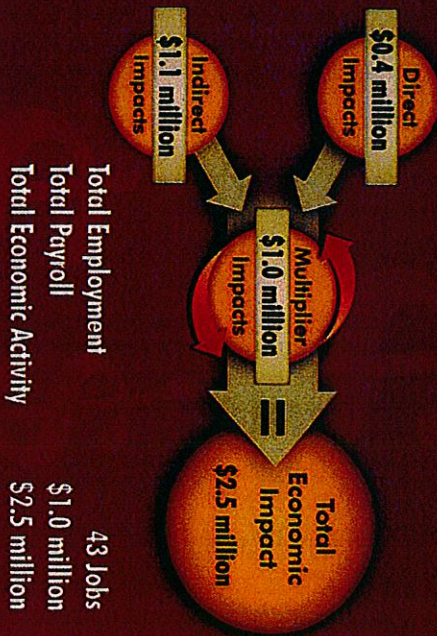
A first class airport system is essential to South Carolina. A strategic program to invest in, maintain, and grow commercial and general aviation airports is critical to South Carolina's economic future.

LANCASTER COUNTY AIRPORT

Lancaster County Airport is a general aviation airport owned and operated by Lancaster County. The airport, located in the Catawba region of South Carolina, is approximately five miles west of the City of Lancaster along SC9. The Catawba River is west of the airport near the end of runway 6. Lancaster County Airport has one asphalt runway, Runway 6/24, measuring 6,004 feet long by 100 feet wide.

The airport generates \$0.4 million in direct output, of which \$95,200 is paid to approximately 4 direct full-time jobs. Additionally, 10,870 general aviation visitors arrive at the airport each year, generating another \$1.1 million in indirect aviation-related output. Including the multiplier effect, the airport tenants and visitors at Lancaster County Airport generate \$2.5 million in total economic output, of which \$1.0 million in payroll is paid to 43 full-time equivalent jobs.

Regular airport activities include recreational flying, corporate flying activities, training and various aviation services that support the health, welfare, and safety of the community. The airport's location, in close proximity to Charlotte, has provided regional aviation users with a viable option to metro Charlotte general aviation facilities attracting additional users who contribute to both the state and local economy.



IMPACT MEASURES

Economic impacts are expressed in terms of jobs/employment, payroll/earnings, and total annual economic activity or output.

Jobs/Employment

Thousands of jobs in South Carolina are created by businesses, tenants and other activities that are located on commercial service or general aviation airports or at one of the four military airfields. In addition, spending by visitors who arrive in South Carolina using one of the commercial service or general aviation airports supports additional employment.

Payroll/Earnings

Aviation in South Carolina supports an estimated 65,533 jobs. All of these jobs have annual salaries that contribute to the payroll/earnings benefits. It is estimated that on an annual basis, public commercial service and general aviation airports and the four military airfields are responsible for \$1.9 billion in payroll/earnings benefits.

Annual Economic Activity/Output

Airports, the military airfields and related aviation activities all require the purchase of goods and services. Expenditures in this category are in addition to those identified in the earnings or payroll category. These impacts are expressed as total annual economic activity or output. For South Carolina, this annual benefit is estimated at \$4.3 billion.

MEETINGS & FUNCTIONS – 2015

DAY/DATE	TIME	FUNCTION/LOCATION
Monday, October 26 th	6:00 p.m.	Executive Session Regular Council Meeting
Monday, November 9 th	6:30 p.m.	Regular Council Meeting
Tuesday, November 10 th	8:00 a.m.	Public Safety Committee / Conference Room
Tuesday, November 10 th	3:00 p.m.	I&R Committee / Chambers
Tuesday, November 10 th	9:00 a.m.	Economic Development Structural Committee
Thursday, November 19 th	4:30 p.m.	Administration Committee / Chambers
Monday, November 23 rd	6:30 p.m.	Regular Council Meeting
Tuesday, December 8 th	11:30 a.m.	County Christmas Lunch – Springdale Recreation
Saturday, December 12 th	6:00 p.m.	Christmas Parade
Saturday, December 12 th	7:30 p.m.	Performing Arts Series Sawyer Brown - USCL Bundy Auditorium
Monday, December 14 th	6:30 p.m.	Regular Council Meeting
Tuesday, December 15 th	8:00 a.m.	Public Safety Committee / Conference Room
Tuesday, December 15 th	3:00 p.m.	I&R Committee / Chambers
Thursday, December 17 th	4:30 p.m.	Administration Committee / Chambers

LANCASTER COUNTY STANDING MEETINGS

3rd Thursday of each month 4:30 p.m. ... Administration Committee
 The Tuesday following 1st Council meeting (most of the time it is the 2nd Tuesday)
 8:00 a.m. Public Safety Committee
 The Tuesday following the 1st Council meeting (most of the time it is the 2nd Tuesday)
 3:00 p.m. ... Infrastructure and Regulation Committee
 1st Thursday of each month 7:00 p.m. ... Fire Commission, Covenant Street EOC Building
 2nd and 4th Tuesday of each month 9:00 a.m. ... Development Review Committee, Council Chambers
 2nd Tuesday of each month 6:30 p.m. ... Zoning Appeals Board, County Council Chambers
 2nd Tuesday of each month 6:30 p.m. ... Recreation Commission, 260 S. Plantation
 Last Tuesday of each month (Every other month – Beginning with Feb.) 6:00 p.m. Library Board, Carolinian Room, Library
 2nd Wed (Jan/March/May/July/Sept/Nov) 11:45 a.m. ... Health & Wellness Comm., various locations
 2nd Tuesday 6:00 p.m. ... Historical Commission, Library Conference Room
 3rd Thursday of each month 6:30 p.m. ... Community Relations Commission, County Council Chambers
 1st Thursday of each month 5:00 p.m. ... Planning Commission work session, County Council Chambers
 3rd Tuesday of each month 6:30 p.m. ... Planning Commission, County Council Chambers
 Quarterly (2nd Monday -March , June, Sept, Dec.) 6:30 p.m. Airport Commission, Airport Conference Room