

Lancaster County Council Administration Committee Regular Meeting Amended Agenda

Thursday, October 12, 2017

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

1. Call to Order – Committee Chair Charlene McGriff 6:00 p.m.
2. Approval of the agenda *[deletions and additions of non-substantive matters]*
3. Citizens Comments
4. Consent Agenda – pgs. 3-9
 - a. **Approval of the following Administration Committee meeting minutes:**
 - September 12, 2017 Special Meeting
 - September 14, 2017 Regular Meeting
5. Discussion / Action Items
 - a. **Ordinance 2017-1478 regarding First Amendment to the Avondale Development Agreement**

Ordinance Title: An Ordinance To Approve A First Amendment To The Development Agreement Avondale Development; To Authorize Certain County Officials To Execute And Deliver The First Amendment To The Development Agreement Avondale Development. – *John Weaver – pgs. 10-51*
 - b. **Resolution 0967-R2017 regarding an Inducement Resolution for Rhyno Partners BR Holdings, LLC**

Resolution Title: A Resolution To State The Commitment Of Lancaster County To Enter Into A Fee Agreement With Rhyno Partners BR Holdings, LLC, And A Special Source Revenue Credit Agreement With The Blythe Company, An Affiliate Of Rhyno Partners BR Holdings, LLC; To Provide The General Terms Of The Fee Agreement And Special Source Revenue Credit Agreement Including The Provision Of Special Source Revenue Credits; To Provide That This Resolution Is An Inducement Resolution 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. – *John Weaver – pgs. 52-57*

c. **Ordinance 2017-1479 regarding Authorization of Fee Agreement Between Lancaster County and Rhyno Partners BR Holdings, LLC**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Fee Agreement By And Among Lancaster County And Rhyno Partners BR Holdings, LLC, Providing For, Among Other Things, The Payment Of A Fee-In-Lieu Of Taxes And The Provision Of Special Source Revenue Credits; To Authorize The Execution Of A Special Source Revenue Credit Agreement By And Among Lancaster County And The Blythe Company, LLC, Providing For, Among Other Things, The Provision Of Special Source Revenue Credits; To Express The Intention Of Council To Provide Monies To The Economic Development Fund. – *John Weaver – pgs. 58-96*

d. **Ordinance 2017-1480 regarding Approval of a Fifth Amendment to the Agreement of the Joint Industrial and Business Park Between Lancaster County And Chester County**

Ordinance Title: An Ordinance To Approve A Fifth Amendment To The Agreement For The Development Of A Joint Industrial And Business Park Dated As Of December 1, 2008 Between The County And Chester County So As To Remove Certain Property Previously Added To The Park Agreement. – *John Weaver – pgs. 97-103*

e. Hospitality Tax funds for Buford Recreation Center – *Hal Hiott/Kim Hill – pg. 104*

f. Grants from VOCA, SCDPS and JAG for the Solicitor's office – *Randy Newman – pgs. 105-106*

g. Information only for grants for Sheriff's Office – *Sheriff Barry Faile/Steve Willis - pg. 107*

h. Monthly Report – *Kimberly Hill*

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



DRAFT

Members of Lancaster County Council
Administration Committee

Charlene McGriff, District 2, Chairwoman
Steve Harper, District 5
Terry Graham, District 1

Minutes of the Lancaster County Council Administration Committee Special Meeting

101 N. Main Street, Lancaster, SC 29720

Tuesday, September 12, 2017

Council Members present were Charlene McGriff, Steve Harper, Terry Graham and Billy Mosteller. Also present were John Weaver, Steve Willis, Sherrie Simpson, John Gast of Keck and Wood, Veronica Thompson, Kim Hill and various Department Heads. A quorum of the Lancaster County Administration Committee was present for the meeting.

The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: *Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, *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 and on the county website for the required length of time.

Call to Order

Chairwoman Charlene McGriff called the meeting to order at 5:00 p.m.

Approval of the agenda

Terry Graham moved to approve the agenda. The Committee approved the agenda by unanimous vote of 3-0.

Citizens Comments

There were no citizens that came forward for comments.

Discussion / Action Items

Discussion of Lancaster County DSS Building Renovation Project and Community Development Block Grant application and Resolution 0971-R2017 regarding Funding For The Local Match on a CDBG For DSS Office Space

Resolution Title: A Resolution Related To Funding For The Local Match On A Community Development Block Grant For Office Space For The South Carolina Department Of Social Services Office In Lancaster County.

Steve Willis explained the Department of Social Services (DSS) building renovation project, which is needed due to overcrowding in the current location. He explained that Lancaster County is applying for a grant through the Community Development Block Grants to help with the renovation project. He stated that the amounts for the renovations for Resolution 0971-R2017 have changed since the Resolution was printed for the agenda packet. He provided a corrected and updated Resolution 0971-R2017, attached as Schedule A, for the Committee to consider.

Terry Graham asked if the building that the County is renovating has already been acquired. Steve Willis explained that Humana is donating the building. Steve Harper asked if the State of South Carolina has to approve the location of DSS in that building and Steve Willis indicated that they did. Steve Willis explained that, at this point, the County is working on a grant application and not grant acceptance. Charlene McGriff asked when the County would get reimbursed from DSS for part of the balance for the building upgrade. Veronica Thompson stated that she is trying to confirm that information and what the County will need to turn in to get the reimbursement. Charlene McGriff stated that the County does not want to lose the grant money from the CDBG for this project. Steve Willis indicated again that the County is simply submitting the grant application at this time. Charlene McGriff asked where the money would come from in the budget if the County does not get the grant and where the money would come from to pay for the renovations up front before the County gets reimbursed. Kim Hill stated that the money will be fronted out of fund balance. Veronica Thompson stated that the County has to spend the money up front and then the County will receive reimbursement, which is usually on a quarterly basis. Charlene McGriff asked about the time frame for the project and Steve Willis explained that the project should be underway by spring. Steve Willis indicated that the County can decline the grant if everything does not work out with the building donation or with the building itself.

Steve Harper moved that Resolution 0971-R2017, attached as Schedule A, be moved to full Council with a favorable recommendation from the Administration Committee. Seconded by Terry Graham. The motion passed by unanimous vote of 3-0.

Development Fee for Stormwater project.

Steve Harper asked if fees can be reduced or credits given for using Best Management Practices (BMP) for the Stormwater program. Steve Willis stated that Lancaster County does not have a credit program yet. John Gast explained that credits usually only apply to older developments and not newer developments because newer developments are already going to be using BMP. Jeff Catoe explained that staff advised against a credit component for the Stormwater program since

there will not be enough staff to manage a credit component. Steve Harper stated that the development plan review fees need to be included in the revenue for the budget. Steve Willis indicated that the appropriate time to consider the Stormwater budget will be during the upcoming budget amendment. Scott Edgar explained the inconsistencies within existing Stormwater programs that use a credit component. He stated that a credit component can be implemented at a later date if it is needed. Kim Hill explained her concerns regarding basing a program budget off of the development plan review fees because those fees can vary from year to year due to possible economic downturns.

Adjournment

Steve Harper moved to adjourn the Administration Committee meeting. The motion to adjourn the Administration Committee meeting passed by a unanimous vote of 3-0. The Administration Committee meeting adjourned at 5:30 p.m.

Respectfully Submitted:

Approved by the Administration Committee

Sherrie Simpson
Clerk to Council

Charlene McGriff, Chairwoman



DRAFT

Members of Lancaster County Council
Administration Committee

Charlene McGriff, District 2, Chairwoman
Steve Harper, District 5
Terry Graham, District 1

Minutes of the Lancaster County Council Administration Committee Regular Meeting

101 N. Main Street, Lancaster, SC 29720

Thursday, September 14, 2017

Council Members present were Charlene McGriff, Steve Harper, Terry Graham and Billy Mosteller. Also present were Steve Willis, Sherrie Simpson, Chelsea Gardner, Veronica Thompson, Kim Hill and various Department Heads. A quorum of the Lancaster County Administration Committee was present for the meeting.

The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: *Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, *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 and on the county website for the required length of time.

Call to Order

Chairwoman Charlene McGriff called the meeting to order at 6:00 p.m.

Approval of the agenda

Terry Graham moved to approve the agenda. The Committee approved the agenda by unanimous vote of 3-0.

Citizens Comments

Peter Gertler, 6277-600 Carolina Commons, Indian Land, SC, spoke regarding the Stormwater program and an Indian Land satellite office.

Susan Hunter Wallace, Lancaster County Auditor, spoke regarding an Indian Land satellite office.

Consent Agenda

Steve Harper moved to approve all of the items on the Consent Agenda. The motion to approve the July 12, 2017 Regular Meeting minutes and the August 23, 2017 Special Meeting minutes passed by unanimous vote of 3-0.

Discussion / Action Items

Enter into discussions or agreement to contract with American Financial Credit Services, Inc.

Lee Weeks discussed using American Financial Credit Services, Inc. to collect outstanding bills for the Delinquent Tax Office. He explained the current status of the outstanding bills for the Office. He explained the services offered by American Financial Credit Services, Inc. He also explained how the company is paid and that they do not charge anything to the County. The money collected will go back into the general fund for the County and the company sends money from the collections to the County on a monthly basis. He noted that Beaufort County uses this company and he provided a letter of recommendation from the Beaufort County Treasurer's Office, attached as Schedule A. Charlene McGriff asked how long it would take to get the program started and Lee Weeks indicated that it would be approximately 90 days.

Steve Harper moved that the agreement to contract with American Financial Credit Services, Inc. be moved to full Council with a favorable recommendation from the Administration Committee. The motion passed by unanimous vote of 3-0.

Update on Hospitality Tax collections.

Kim Hill reviewed the collections for the Hospitality Tax. Charlene McGriff asked when the County would have enough history so that the money that has been collected can be used. Steve Willis stated that the County would need approximately a two to three year history for the Tax collections before Council starts using the money. Veronica Thompson noted that it is time consuming to make sure that all businesses are paying the Tax and that County staff continue to work on ensuring that all businesses are paying the Hospitality Tax. Charlene McGriff asked what happens if a business does not pay the Tax and Veronica Thompson indicated that a late fee is charged.

Monthly Report.

Kim Hill reviewed the Budget Monitoring Report for the month of August 2017, attached as Schedule B. She reviewed the revenues and expenditures for the month of August.

Discussion of concept – county office space in Indian Land and draft Resolution 0969-R2017.

Resolution Title: A Resolution To Approve The Establishment Of A Lancaster County Government Satellite Office In The Indian Land Section Of Lancaster County Pursuant To The Terms And Conditions Set Forth Herein And To Authorize The County Administrator To Enter Into A Lease For The County's Use And Occupancy Of The Space Identified Therewith.

Steve Willis provided handouts regarding the Lancaster County Government Indian Land Satellite Office, attached as Schedule C and Schedule D. He discussed which departments could use the satellite office. Steve Harper stated that the location is perfect and that Stormwater needs to go in that location. Scott Edgar indicated that he needs four offices for all of the Stormwater staff. Steve Harper explained his concerns regarding moving the Building Department up to the Indian Land location. Charlene McGriff stated that she wants the satellite office to help with citizen services. She stated her concerns over moving the Building and Zoning departments. Steve Willis explained that the County is not moving the whole department but rather that the Building Department will have most of their Inspectors up there. The staff and Committee members discussed the various departments that could use the satellite office and how many offices are needed. Kim Hill discussed the budget for the satellite office.

Steve Harper moved that the Administration Committee recommend to full Council to move forward with a satellite office in Indian Land with the first priority for offices going to a fully staffed Stormwater program and second priority going to constituent services. The departments that will use the satellite office for constituent services will be worked out between the Administrator and the departments. The motion passed by unanimous vote of 3-0.

Proposed timeline for Resolution No. 0968-R2017.

Steve Willis reviewed the timeline for Resolution Number 0968-R2017, but reminded the Committee that the dates are only an estimate. Charlene McGriff noted that the Committee understands that the dates are only proposed dates and are tentative.

Steve Harper excused himself from the Committee meeting at 7:03 p.m.

Nicholas Miller stated that the timeline is fair as far as Procurement is concerned. Veronica Thompson stated that she has already contacted the necessary people regarding the bonding of the projects. She stated that she hopes to have someone come and address the Committee regarding the bonding for the two projects.

Discussion of budget amendment.

Kim Hill reviewed the items to be considered for the upcoming budget amendment: fire study, easement, three replacement stretchers for EMS, Skid Steer for Public Works, EMS vehicle, Architect for the Animal Shelter/Fleet and the Indian Land Satellite Site. She stated that the DSS Grant Match will be taken out of the budget amendment at this time. She also reviewed the budget for the Stormwater Program, attached as Schedule E.

Terry Graham moved that the budget amendment be moved to full Council with a favorable recommendation from the Administration Committee. The motion passed by a vote of 2-0.

Adjournment

Terry Graham moved to adjourn the Administration Committee meeting. The motion to adjourn the Administration Committee meeting passed by a vote of 2-0. The Administration Committee meeting adjourned at 7:24 p.m.

Respectfully Submitted:

Approved by the Administration Committee

Sherrie Simpson
Clerk to Council

Charlene McGriff, Chairwoman



TO: Lancaster County Council
Lancaster County Planning Commission
FROM: John L. Weaver, County Attorney
DATE: April 18, 2017
SUBJECT: Avondale Development Agreement (Ordinance 2015-1370) - 1st Amendment

Attached is a revised First Amendment for the Avondale Development Agreement. I've attached the ordinance to approve the First Amendment. Below is the summary which has been modified to reflect the changes made to the First Amendment.

Section-by-Section Summary – First Amendment – Avondale Development Agreement

Section 1. This section is “technical” in nature. It incorporates the recitals (the “whereas” provisions) into the body of the First Amendment.

Section 2. This section amends the definitions section of the Development Agreement. Definitions are added to the Development Agreement for “First Amendment,” “Ordinance No. 2017-1441,” and “Subsequent Developer” which is D.R. Horton. The new definitions are needed to reflect the changes from the First Amendment.

Section 3. Section 3 amends Section 4.01A of the Development Agreement. As originally approved, the Development Agreement required the Developer to pay the County \$365,000 which the County would then send to the School District. The \$365,000 has been paid by the Developer and the County is holding the money. The School District has approved the use of \$100,000 of the School Payment to pay for a portion of the improvements at the intersection of Calvin Hall Road and Harrisburg Road. The changes to Section 4.01A include acknowledgments that the \$365,000 has been paid to the County and the County's intention to remit \$265,000 of the \$365,000 to the School District. In addition, language is included that acknowledges that both the County and School District are satisfied with evidence of the School District's approval of the use of the \$100,000 for the road improvements. Finally, language is included that commits the County to remit the \$100,000 to the Subsequent Developer.

Section 4. Section 4 amends Section 4.04(A)(1)(e) of the Development Agreement, which is the item that specifically addresses the Developer's obligations relating to the road improvements. Originally, the Developer was required to pay the County \$225,000 which would be used by the County to pay for a portion of the costs of the road improvements. The item also provided for the Developer to provide any land that might be needed for the improvements and that the Developer would be responsible for the construction of any turn lanes that might be needed. The Developer's obligations for the intersection improvements were limited to those described in the preceding sentences. The First Amendment changes the Developer's obligations. First, the Developer is responsible for all costs of the improvements. Second, the

\$225,000 payment to the County is removed because the Developer is now solely responsible for the cost (the monies have not been paid yet and there is now no need to move the money from the Developer to the County and then back to the Developer). Finally, the Developer remains obligated to provide any land needed for the improvements.

Section 5. Section 5 updates the section in the Development Agreement which lists the persons to be provided notice pursuant to the Development Agreement. Specifically, names and addresses are added for the Subsequent Developer (D.R. Horton).

Section 6. Section 6 updates the exhibit in the Development Agreement which lists the laws and development rules that apply to the development. Specifically, the ordinance approving the First Amendment is added to the list.

Section 7. Section 7 requires the County to record the First Amendment within 14 days of its execution.

Section 8. Section 8 includes representations and warranties by the County and Subsequent Developer related to the approval of the First Amendment.

Section 9. Section 9 allows the First Amendment to be executed in counterparts.

Section 10. Section 10 provides that the First Amendment is effective upon its execution.

**TO: The Lancaster County Council and the
Lancaster County Planning Commission**

COPY

FROM: D.R. Horton, Inc. and Sinacori Builders, LLC

DATE: February 21, 2017

In order to meet the public safety concerns at the Harrisburg Road/Calvin Hall Road intersection, D.R. Horton, Inc., the owner of the 166 acre tract known as Avondale located to the southeast of the intersection, and Sinacori Builders, LLC, owner of the 11.302 acre tract located to the northwest of the same intersection, being identified as Parcel 3 on a plat recorded January 18, 2017 in Plat Book 2017 at Page 31, jointly agree to work together in concert to make available at no cost to either Lancaster County or the SCDOT sufficient property on these two parcels so that a vehicular traffic roundabout can be constructed at this intersection.

The roundabout shall be a single lane traffic control project and shall be in alignment with the proposed intersection realignment of Calvin Hall Road with Harrisburg Road. The roundabout shall meet the construction requirements of the SCDOT in all respects and, further, the roundabout shall meet any requirements of the Lancaster County Technical Review Committee.

By making this declaration, it is understood that the construction cost of this roundabout intersection will be shared in the following amounts:

- A. Lancaster County School Board - \$100,000.00.
- B. Lancaster County - \$225,000.00 (those funds indicated in Section 4.04(A)(e)(i) of the Development Agreement between Lancaster County and Sinacori Builders, LLC recorded December 9, 2016.
- C. D.R. Horton, Inc. and/or Sinacori Builders, LLC – the entire remaining balance of the construction cost of the roundabout and associated road improvements.

D.R. Horton, Inc. consents to this declaration and agreement to construct the roundabout being made as a condition of the Planning Commission's approval of Avondale's proposed Master Plan and D.R. Horton, Inc. will take all steps

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necessary to redesign the intersection so as to include the roundabout as a condition of the approval.

Lastly, Sinacori Builders, LLC pledges, without delay or objection, to take all steps necessary so as to amend such sections of the Development Agreement as are appropriate to conform and comply with this declaration.

By the signatures noted below, D.R. Horton, Inc. and Sinacori Builders, LLC each acknowledge that each has full corporate authority to make the declaration(s) noted herein.

Date: 2-13-17

D.R. Horton, Inc.

By: [Signature]

Title: Vice President Operations

Date: 2-13-2017

Sinacori Builders, LLC

By: [Signature]

Title: Manager

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2017-1478

COUNTY OF LANCASTER

)

)

AN ORDINANCE

TO APPROVE A FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AVONDALE DEVELOPMENT; TO AUTHORIZE CERTAIN COUNTY OFFICIALS TO EXECUTE AND DELIVER THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AVONDALE DEVELOPMENT.

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

Section 1. Findings and Determinations; Purpose.

A. 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, codified as 9.2.18 in Chapter 9 of the Unified Development Ordinance (the “Ordinance”), to enter into development agreements with developers;

(b) Council approved a development agreement for the Avondale development between Sinacori Builders, LLC (“Developer”), and the County of Lancaster and that development agreement, dated November 28, 2016, is recorded in the records of the Lancaster County Register of Deeds in Deed Book 1018, Pages 15-42 (the “Development Agreement”);

(c) Developer subsequently assigned it rights under the Development Agreement to D.R. Horton, Inc. (“Subsequent Developer”), pursuant to that certain Assignment and Assumption of Development Agreement dated and recorded January 26, 2017 in the records of the Lancaster County Register of Deeds in Deed Book 1029, Pages 34-38.

(c) the Subsequent Developer has requested Council to approve amendments to the portions of the Development Agreement relating to certain road improvements at the intersection of Calvin Hall Road and Harrisburg Road.

B. It is the purpose of this ordinance to approve an amendment to the Development Agreement with the amendment relating to certain road improvements at the intersection of Calvin Hall Road and Harrisburg Road.

Section 2. Approval of First Amendment; Authorization to Act.

A. The Council Chair and Council Secretary are each authorized, empowered and directed to execute, acknowledge and deliver a First Amendment to the Development Agreement Avondale Development between D.R. Horton, Inc., a Delaware corporation and the County of Lancaster (the "First Amendment") in the name and on behalf of the County of Lancaster. The form of the First Amendment is attached hereto as Exhibit A and all terms, provisions and conditions of the First Amendment are incorporated herein by reference as if the First Amendment were set out in this ordinance in its entirety. By adoption of this ordinance, the Council approves the First Amendment and all of its terms, provisions and conditions. The First Amendment 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 the 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 First Amendment 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 effectuate the purpose of this ordinance and the First Amendment. The Council and its duly elected or appointed officers and any other County official are each authorized to take any and all action as may be necessary to effectuate the purposes of this ordinance and the First Amendment.

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.

SIGNATURES FOLLOW ON NEXT PAGE.

AND IT IS SO ORDAINED

Dated this _____ day of _____, 2017.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Larry Honeycutt, Secretary, County Council

Attest:

Sherrie M. Simpson, Clerk to Council

Planning Commission Public Hearing:	October 17, 2017	(Tentative)
First Reading:	October 23, 2017	(Tentative)
Second Reading:	November 13, 2017	(Tentative)
Council Public Hearing:	November 27, 2017	(Tentative)
Third Reading:	November 27, 2017	(Tentative)

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Exhibit A to Ordinance No. 2017-1478

**First Amendment to the Development Agreement Avondale Development
between
D.R. Horton, Inc., and the County of Lancaster**

See attached.

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(Space above this line for recording use)

STATE OF SOUTH CAROLINA)	FIRST AMENDMENT TO THE
)	DEVELOPMENT AGREEMENT
COUNTY OF LANCASTER)	AVONDALE DEVELOPMENT

This **FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE AVONDALE DEVELOPMENT** (“First Amendment”) is made and entered into as of the ____ day of _____ 2017, by and between **D.R. HORTON, INC.**, (“Subsequent Developer”), a Delaware corporation, and the **COUNTY OF LANCASTER** (the “County”), a body politic and corporate, a political subdivision of the State of South Carolina.

RECITALS

WHEREAS, the Development Agreement dated November 28, 2016 for the Avondale development was entered into by Sinacori Builders, LLC (“Developer”), a North Carolina limited liability company and the County (the “Development Agreement”). The Development Agreement is recorded in the records of the County Register of Deeds in Deed Book 1018, Pages 15-42;

WHEREAS, Developer subsequently assigned it rights under the Development Agreement to Subsequent Developer, pursuant to that certain Assignment and Assumption of Development Agreement dated and recorded January 26, 2017 in the records of the County Register of Deeds in Deed Book 1029, Page 34-38;

WHEREAS, Subsequent Developer seeks to amend the Development Agreement as it relates to certain road improvements at the intersection of Calvin Hall Road and Harrisburg Road;

WHEREAS, Section 5.02 of the Development Agreement provides that amendments to the Development Agreement must be in writing and, for the amendment to be effective, it must be signed by the party against whom the amendment is sought to be enforced;

WHEREAS, it is the purpose of this First Amendment to amend provisions of the Development Agreement relating to certain road improvements at the intersection of Calvin Hall Road and Harrisburg Road.

FIRST AMENDMENT

NOW THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this First Amendment, the receipt and sufficiency of such consideration being acknowledged by the parties, the parties to this First Amendment intending to be legally bound, agree as follows:

Section 1. The above recitals are incorporated in this First Amendment as if the recitals were set out in this First Amendment in their entirety.

Section 2. The definitions in Section 1.02 of the Development Agreement are amended by adding definitions for “First Amendment,” “Ordinance No. 2017-____,” and “Subsequent Developer”:

“(7A) ‘First Amendment’ means the First Amendment to the Development Agreement Avondale Development, dated _____, 2017, and approved by passage of Ordinance No. 2017-_____.

(10A) ‘Ordinance No. 2017-____’ means Ordinance No. 2017-____ of the County approving the First Amendment.

(15A) ‘Subsequent Developer’ means D.R. Horton, Inc., a Delaware corporation, as successor to the Developer pursuant to an Assignment and Assumption of Development Agreement dated and recorded January 26, 2017 in the records of the County Register of Deeds in Deed Book 1029, Pages 34-38, and its successors in title to the Property who undertake Development of the Property.”

Section 3. Section 4.01A. of the Development Agreement, relating to School Payments, is amended to read:

“Section 4.01A. School Payments. (A) Developer agrees to pay to the County for the benefit of the Lancaster County School District THREE HUNDRED SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$365,000.00) on the Effective Date (as defined in Section 5.19 below) (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.

(B) County acknowledges (i) receipt from the Developer of the School Payment prior to the date of the First Amendment, (ii) possession of the School Payment as of the date of the First Amendment, and (iii) County’s intention to remit TWO HUNDRED SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$265,000.00) of the School Payment to the Lancaster County School District on a date after the date of the First Amendment.

(C) County and Subsequent Developer each acknowledge that the governing body of the Lancaster County School District has provided County and Subsequent Developer a document,

satisfactory in form and content to County and Subsequent Developer, that evidences the approval of the governing body of the Lancaster County School District for the remittance by the County to Subsequent Developer of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) of the School Payment to defray a portion of the costs of the improvements to be made at the intersection of Calvin Hall Road and Harrisburg Road.

(D) County agrees to remit ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) of the School Payment to Subsequent Developer to defray a portion of the costs of the improvements to be made at the intersection of Calvin Hall Road and Harrisburg Road.”

Section 4. Section 4.04(A)(1)(e) of the Development Agreement, relating to the intersection of Calvin Hall Road and Harrisburg Road, is amended to read:

“(e) Provided that the realignment of Calvin Hall Road, as described in Section 4.04(A)(1)(b), is approved by the SCDOT as requested by Developer, Developer’s obligations with respect to the intersection of Calvin Hall Road and Harrisburg Road shall be as follows:

(i) Reserved.

(ii) Subsequent Developer is responsible for all costs of any required transportation improvements to the intersection of Calvin Hall Road and Harrisburg Road, including the costs of a roundabout, and is responsible for the completion of the transportation improvements in accordance with the requirements of the SCDOT. For purposes of this item, transportation improvements include a single lane roundabout which shall be aligned with the realignment of the intersection of Calvin Hall Road and Harrisburg Road. The roundabout must meet the construction requirements of the SCDOT and any requirements of the County Technical Review Committee, as established by Section 9.1.3 of the Unified Development Ordinance adopted November 28, 2016.

(iii) Reserved.

(iv) Developer and Subsequent Developer shall dedicate at no cost to the County or the State of South Carolina right-of-way from the Property that is reasonably required for the construction and maintenance of the required transportation improvements to intersection of Calvin Hall Road and Harrisburg Road.”

Section 5. Section 5.01 of the Development Agreement, relating to Notices, is amended by adding at the end:

“To the Subsequent Developer: D.R. Horton, Inc.
Attn: Brian Etheridge
8001 Arrowridge Blvd.
Charlotte, NC 28273

With Copy to: Bagwell Holt Smith P.A.

Attn: Michael R. Ganley
111 Cloister Court, Suite 200
Chapel Hill, NC 27514”

Section 6. Exhibit E of the Development Agreement, relating to Laws and Land Development Regulations, is amended to read:

“Exhibit E
Laws and Land Development Regulations

1. Ordinance No. 2015-1369, zoning the Property Planned Development District.
2. Ordinance No. 2015-1370, 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 the Agreement Date. The UDO includes Ordinance No. 328, as amended, as of the Agreement Date and which is cited as the Land Development Regulations of Lancaster County. A copy of the UDO is filed in the County Planning Department.
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.
7. Ordinance No. 2017-____ approving the First Amendment to this Development Agreement.”

Section 7. County agrees to record this First Amendment with the Lancaster County Register of Deeds within fourteen (14) days of the execution of this First Amendment.

Section 8. (A)(1) The County represents that it has approved this First Amendment by adoption of Ordinance No. 2017-____ in accordance with the procedural requirements of 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, Lancaster County Ordinance No. 663 and any other applicable law.

(2) The County represents that prior to the final reading of Ordinance No. 2017-____ 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.

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

Section 9. This First Amendment 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 10. This First Amendment is effective upon its execution.

IN WITNESS WHEREOF, D.R. Horton, Inc., has caused this instrument to be executed by its duly authorized Division President, all by order and authority duly granted by its corporate board of directors, as of the day and year first above written.

D.R. HORTON, INC.,
a Delaware corporation

Witness #1

By: _____
Brian Etheridge, Division President

Witness #2

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that Brian Etheridge personally appeared before me this day and acknowledged that he is Division President of D.R. Horton, Inc., a Delaware corporation, and that he, being duly authorized to do so, executed the foregoing for and on behalf of said corporation.

Witness my hand and official stamp or seal, this _____ day of _____, 2017.

NOTARY SEAL

Signature of Notary Public
My Commission Expires: _____

COUNTY SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the County of Lancaster, South Carolina, has caused this instrument to be executed by its duly authorized Chair and Secretary, as of the day and year first above written.

**COUNTY OF LANCASTER,
SOUTH CAROLINA**

Witness #1

By: _____
Steve Harper, Chair, County Council

Witness #2

Witness #1

By: _____
Larry Honeycutt, Secretary, County Council

Witness #2

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

I, _____, a Notary Public of the County and State aforesaid, certify that Steve Harper personally appeared before me this day and acknowledged that he is Chair of the County Council of Lancaster County, South Carolina, a body politic and corporate, a political subdivision of the state of South Carolina, and that he, being duly authorized to do so, executed the foregoing for and on behalf of said County and that Larry Honeycutt personally appeared before me this day and acknowledged that he is Secretary of the County Council of Lancaster County, South Carolina, a body politic and corporate, a political subdivision of the state of South Carolina, and that he, being duly authorized to do so, executed the foregoing for and on behalf of said County..

Witness my hand and official stamp or seal, this _____ day of _____, 2017.

NOTARY SEAL

Signature of Notary Public
My Commission Expires: _____

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2016018338

DEED NO CHARGE
RECORDING FEES

\$0.00

PRESENTED & RECORDED:

12-09-2016 12:09 PM

JOHN LANE

REGISTER OF DEEDS
LANCASTER COUNTY, SC

By: CANDICE PHILLIPS DEPUTY

BK: DEED 1018

PG: 15-42

(Space above this line for recording use)

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER) **DEVELOPMENT AGREEMENT**
)
) **AVONDALE DEVELOPMENT**

This **DEVELOPMENT AGREEMENT** (the "Agreement") is made and entered into as of the 28th day of November, 2016 ("Agreement Date"), by and between **SINACORI BUILDERS, LLC** ("Developer"), a North Carolina limited liability company, 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 179.35 acres, more or less, located between Calvin Hall Road and Harrisburg Road in the Indian Land section of the County and known as the Avondale development.

WHEREAS, Developer has submitted an application to the County requesting that the property comprising the Avondale development be rezoned to Planned Development District.

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 they 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 Sinacori Builders, LLC, a North Carolina limited liability company, 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. A copy of the Laws and Land Development Regulations, as of the Agreement Date, is on file in the County Planning Department.
- (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. 2015-1369” or “PDD-27” means Ordinance No. 2015-1369 of the County zoning the Property Planned Development District.

(11) "Ordinance No. 2015-1370" means Ordinance No. 2015-1370 of the County approving this Agreement.

(12) "Parties" means County and Developer.

(13) Reserved.

(14) "Property" means the land, and any improvements thereon, described in Section 1.04.

(15) "Sinacori 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/or (ii) any entity that is the successor in interest to Developer via merger or operation of law.

(16) "UDO" means Ordinance No. 309, as amended, as of the Agreement Date and which is cited as the Unified Development Ordinance of Lancaster County. The UDO includes Ordinance No. 328, as amended, as of the Agreement Date 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 the Avondale development.

Section 1.05. Zoning. The Property is zoned Planned Development District pursuant to Ordinance No. 2015-1369.

Section 1.06. Permitted Uses. (A) PDD-27 provides 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-27 apply and if no specific standard is contained in PDD-27, then the standards contained in 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. 2015-1370 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. 2015-1370 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 seventy-nine and 35/100s (179.35) acres.

(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) 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 PDD-27, 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 PDD-27 and the UDO, the standards contained in this Agreement supersede all other standards and this Agreement is deemed controlling.

(2) To the extent that PDD-27 may contain zoning and development standards which conflict with zoning and development standards in the UDO, the standards contained in PDD-27 supersede all other standards and PDD-27 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 3.01A. Buffer/Berm Variances Allowed. Two variances from the buffer standards are hereby granted. First, a variance to allow a reduction in the width of the required buffer located in Village C adjacent to the southernmost access road into the Development from Harrisburg Road has been provided as more particularly depicted on the Entrance Buffer Reduction Detail on the Master Plan (the "Detail"). The Master Plan is contained in Exhibit F, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety. As provided on the Detail, Developer shall be required to install a minimum 6 foot tall wall on the north and south sides of the access road within the reduced buffer area. More specifically, the minimum width of this buffer shall be 10 feet as more particularly depicted on the Detail due to the width of that portion of the Property. Second, a variance has been provided to eliminate the requirement that a berm be installed within the 30 foot landscaped buffer to be established on the frontage of all roads.

Additionally, with respect to the buffer to be located along the northern boundary line of Village A along the common property line of Village A and Tax Parcel No. 0005-00-018 (the Harrisburg Elementary School site), in the event that the County accepts the conveyance of Village A from Developer, that portion of the buffer located along the common property line of Village A and Tax Parcel No. 0005-00-018 shall not be required and may be eliminated at the option of the County.

Section 3.01B. Sidewalks. Developer agrees to include sidewalks on Calvin Hall Road, Harrisburg Road, and within the development. The sidewalks on Calvin Hall Road and Harrisburg Road will be built in coordination with the South Carolina Department of Transportation's road section requirements and shall be built to a width of six (6) feet. The responsibility of maintaining

those sidewalks shall rest with the Property Owners Association. The sidewalk construction requirement on Calvin Hall Road and Harrisburg Road is limited to the areas where Calvin Hall Road and Harrisburg Road abut the Developer's Property identified herein that the Developer controls. At the Developer's discretion, sidewalks may be built within the Project's buffer areas, including the 30 foot landscaped buffer to be established on the frontage of all roads. The purpose for the sidewalks is to promote the walkability of the development.

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 adopted by County Council 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, and, if applicable, the amount of non-residential development 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.

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. School Payments. Developer agrees to pay to the County for the benefit of the Lancaster County School District THREE HUNDRED SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$365,000.00) on the Effective Date (as defined in Section 5.19 below) (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.

Section 4.01B. Funds for Public Safety. Developer agrees to pay to the County SEVEN HUNDRED THIRTY THOUSAND AND NO/100 DOLLARS (\$730,000.00) on the Effective Date (as defined in Section 5.19 below) (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.

Section 4.01C. Dedication of Institutional Land. Subject to the terms of this Section 4.01C., Developer hereby offers for dedication and conveyance to the County that approximately ten (10) acre portion of the Development designated as Village A on the Master Plan (the “Institutional Land”) for civic, institutional, park and/or recreation uses. The Institutional Land is intended to be developed by the County or its designee for civic, institutional, park and/or recreation uses and is being provided by Developer as a means of satisfying the commercial development requirement set out in Section 13.12.1.11(d) of the UDO. (This is in addition to Village B, which on its own shall satisfy this commercial development requirement). County may accept this offer for the dedication and conveyance of the Institutional Land by Developer only after the Effective Date of this Agreement (as defined below in Section 5.19 hereof), and County must accept this offer by written notice to Developer pursuant to Section 5.01 hereof within fifteen (15) days of the Effective Date or this offer will expire and become null and void. County and Developer acknowledge that the decision of the County to accept this offer for the dedication and conveyance of the Institutional Land is a discretionary decision for County Council. If the County determines to accept the dedication and conveyance of the Institutional Land within the time period set out above, then Developer shall convey the Institutional Land to the County free of any encumbrances and by way of a general warranty deed conveying marketable and insurable title to the County within thirty (30) days of the date on which County notifies Developer in writing that County accepts Developer’s offer to dedicate and convey the Institutional Land to County. No recycling centers, convenience site or trash or solid waste transfer stations or similar type of land uses can be included as an eligible land use on the Institutional Land.

If the County should, in its discretion, decide not to accept the Institutional Land or shall fail to timely accept the offer such that the offer expires, then Developer shall be permitted, in its discretion, to retain the Institutional Land and either remove it from the PDD-27 or keep it in the PDD-27 and combine the Institutional Land with Village B, the Mixed Use Village. In the event that Developer determines to keep the Institutional Land in the PDD-27 and to combine it with Village B, then the Institutional Land may be developed with a freestanding building containing a maximum of 6,500 square feet of gross floor area devoted to commercial, retail and service uses that are accessory to and in support of the senior uses described in Section 8 of the PDD-27 Ordinance. This 6,500 square feet of gross floor area on the Institutional Land shall be in addition to the 15,000 square feet of gross floor area that may be developed in Village B and devoted to commercial, retail and service uses in support of the senior uses.

If the County should, in its discretion, decide not to accept the Institutional Land or shall fail to timely accept the offer such that the offer expires, then Developer shall nonetheless be deemed by the County to have satisfied the commercial development requirement of Section 13.12 of the UDO because of Developer’s planned use of Village B.

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, 2016, for the County’s reasonable unreimbursed actual costs related to this Agreement. The foregoing cost

reimbursement is capped at seventeen thousand five hundred dollars (\$17,500.00) 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 ("SCDOT") 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) The Master Plan calls for the realignment of Calvin Hall Road, a state road that is not a road within the Property. The Developer is responsible for obtaining approval from the SCDOT for the proposed realignment of Calvin Hall Road. Developer shall be responsible for the costs associated with the realignment of Calvin Hall Road and for the completion of the realignment project in accordance with the requirements of the SCDOT.

(c) Developer shall cause to be prepared a traffic impact analysis conducted and sealed by a licensed South Carolina professional engineer. Excluding any road or transportation improvements at the intersection of Calvin Hall Road and Harrisburg Road, which intersection is addressed in Section 4.04(A)(1)(e) below, any road improvements that 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 SCDOT. 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.

(d) Excluding the intersection of Calvin Hall Road and Harrisburg Road, which intersection is addressed in Section 4.04(A)(1)(e) below, 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.

(e) Provided that the realignment of Calvin Hall Road as described in Section 4.04(A)(1)(b) is approved by the SCDOT as requested by Developer, Developer's obligations with respect to the intersection of Calvin Hall Road and Harrisburg Road (the "Intersection") shall be as follows:

(i) Developer shall pay to the County TWO HUNDRED AND TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$225,000.00) (the "Intersection Improvement Payment"), which Intersection Improvement Payment shall be applied by the County towards the cost of any required transportation improvements to the Intersection, excluding turn lanes in the event that a roundabout is not installed at the Intersection, which turn lanes are addressed below. Transportation improvements may include a roundabout and/or traffic signals, among other things. Any required transportation improvements shall be constructed and installed by entities other than Developer. The Intersection Improvement Payment shall be paid by Developer to the County prior to the issuance of the first certificate of occupancy for a new building constructed on the Property.

(ii) In the event that a roundabout is not constructed at the Intersection, then Developer shall be responsible for the construction of any required turn lanes at the Intersection.

(iii) Developer shall dedicate at no cost to the County or the State of South Carolina right of way from the Property that is reasonably required for the construction and maintenance of the required transportation improvements to the intersection of Calvin Hall Road and Harrisburg Road.

The items set out above shall be Developer's sole obligations with respect to transportation improvements at the Intersection.

(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 SCDOT. 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 shall provide to County, prior to final plat approval, documentation that a homeowners' or property owners' association, or similar organization is responsible for the perpetual maintenance of 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 (DHEC) 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. Reserved.

Section 4.05A. Final Plat Approval. Notwithstanding any other provision of this Agreement, PDD-27 or 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 DHEC have been obtained by the Developer for storm water management and the Developer shall provide proof that DHEC has issued the appropriate permits.

Section 4.06. Reserved.

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: Sinacori Builders, LLC
Attn: Russ Sinacori
P.O. Box 471785
Charlotte, NC 28247

With Copy to: Sinacori Builders, LLC
Attn: John H. Carmichael
Robinson Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246

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. Unless otherwise provided in this Agreement, 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 on that date 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 (the "Effective Date"). If the County Administrator has not received clocked-in copies of the deeds conveying the Property to Developer by 5:00 p.m. on that date that is seventy (70) days after the date on which this Agreement is approved by the Lancaster County Council, 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 ON FOLLOWING PAGES]

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

WITNESSES:

Chelsea Gardner

[Signature]

DEVELOPER:

SINACORI BUILDERS, LLC,
a North Carolina Limited Liability Company

By: [Signature]

Name: Russell Sinacori

Title: MANAGER

Date: 12-8-2016

STATE OF SC)
COUNTY OF LANCASTER)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Sinacori Builders, LLC, 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.

Chelsea Gardner
First Witness Signs Again Here

Seal

SWORN to before me this
8 day of Dec., 2016.

[Signature]
Notary Public Signs AS NOTARY

Notary Public for the State of SOUTH CAROLINA
My Commission Expires: 1-24-2024

COUNTY SIGNATURES FOLLOW ON NEXT PAGE.

WITNESSES:

COUNTY:

COUNTY OF LANCASTER,
SOUTH CAROLINA




By: 
Bob Bundy, Chair, County Council



Date: 12-9-2016



By: 
Steve Harper, Secretary, County Council

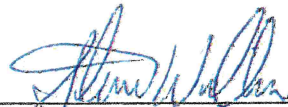


Date: 12/09/2016

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
9 day of Dec, 2016.



Notary Public Signs AS NOTARY
Notary Public for the State of South Carolina
My Commission Expires: 12/28/2016

Exhibit A
Property Description

Avondale Development

Tax Map No. 1 – 0005-00-077.00
Tax Map No. 2 – 0005-00-076.00
Tax Map No. 3 – 0005-00-075.01
Tax Map No. 4 – 0005-00-075.00
Tax Map No. 5 – a portion of 0005-00-074.03
Tax Map No. 6 – 0005-00-093.04
Tax Map No. 7 – 0005-00-093.05
Tax Map No. 8 – 0005-00-092.00
Tax Map No. 9 – 0005-00-091.03
Tax Map No. 10 – 0005-00-091.00
Tax Map No. 11 – 0005-00-089.00
Tax Map No. 12 – 0005-00-089.01
Tax Map No. 13 – 0005-00-083.00
Tax Map No. 14 – 0005-00-079.01
Tax Map No. 15 – 0005-00-078.00

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Exhibit B

THIS EXHIBIT IS INTENTIONALLY LEFT BLANK.

Exhibit C
Development Schedule

	<u>Begin</u>	<u>End</u>
Engineering and Permitting	July 1, 2017	February 28, 2018
Phased Land Development	March 1, 2018	November 30, 2021
Home Construction Starts	September 1, 2018	December 31, 2024
Year 1 Home Closings – Approx. 146 per year	January 1, 2019	December 31, 2019
Year 2 Home Closings – Approx. 146 per year	January 1, 2020	December 31, 2020
Year 3 Home Closings – Approx. 146 per year	January 1, 2021	December 31, 2021
Year 4 Home Closings – Approx. 146 per year	January 1, 2022	December 31, 2022
Year 5 Home Closings – Approx. 146 per year	January 1, 2023	December 31, 2023

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 seven hundred and thirty (730) residential units, comprising: Up to 365 single-family detached units, up to 165 multi-family townhomes, and up to 200 multi-family senior residences, as further described in the PDD-27, see Sections 6, 7, 8 and 11, and the Master Plan for PDD-27.

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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 owners of the Property are Hawfield Trust (Tax Map No. 0005-00-077.00); Hawfield Group LLC (Tax Map No. 0005-00-076.00); Withers (Tax Map No. 0005-00-075.01); Withers (Tax Map No. 0005-00-075.00); Moore (portion of Tax Map No. 0005-00-074.03); Hood (Tax Map No. 0005-00-093.04); Devinney (Tax Map No. 0005-00-093.05); Hudson (Tax Map No. 0005-00-092.00); Patterson, Alan (Tax Map No. 0005-00-091.03); Smith (Tax Map No. 0005-00-091.00); Harvell (Tax Map No. 0005-00-089.00); Harvell (Tax Map No. 0005-00-089.01); Patterson, Carl (Tax Map No. 0005-00-083.00); Blakely (Tax Map No. 0005-00-079.01); and Owsley (Tax Map No. 0005-00-078.00).

(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 rezoning 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.

(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.* See Section 4.01C and Section 4.04(A)(1)(e). Developer also 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 Sections 1.09(B) and (C), Section 3.05 and Section 5.14.*

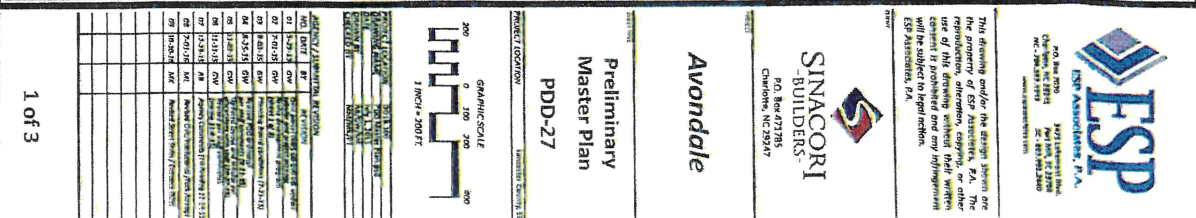
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Exhibit E
Laws and Land Development Regulations

1. Ordinance No. 2015-1369, zoning the Property Planned Development District.
2. Ordinance No. 2015-1370, 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 the Agreement Date. The UDO includes Ordinance No. 328, as amended, as of the Agreement Date and which is cited as the Land Development Regulations of Lancaster County. A copy of the UDO is filed in the County Planning Department.
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.

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Exhibit F
Master Plan



Administration Committee Agenda Item Summary

Ordinance # / Resolution#:	Resolution Number 0967-R2017 and Ordinance #2017-1479
Contact Person / Sponsor:	Jamie Gilbert
Department:	Economic Development
Date Requested to be on Agenda:	October 12, 2017

Issue for Consideration:

Project Rhino is a 40 year old industrial parts sales, distributor and service company that is relocating and planning to significantly expand its operations to Bailes Ridge Corporate Park in Indian Land. The company will construct a 20,000 state-of-the-art Class A building at the park which is expected result in a capital investment expected of \$2,750,000 and employ 21 associates within five years of the completion of the facility. All positions at the facility will have a wage of at least \$19.02/hour.

The Lancaster County Department of Economic Development, in its recruitment of Project Rhino, recommended the county award the company the following:

- 1) A 20 Year Fee-In-Lieu-of-Tax (FILOT) agreement which provides a reduced property tax assessment rate of 6% and locked in millage rate of 313 mills.
- 2) A 5 Year Special Source Revenue Credit (SSRC) of 50% annually to be applied against the FILOT payments.

Points to Consider:

The county has expressed a commitment to support the attraction and expansion of small businesses with strong reputations. Project Rhino is a proven company with an outstanding reputation in their industry that will bring good paying jobs to the county.

Funding and Liability Factors:

There is no funding required or liability factors.

Committee Options:

Vote to approve or decline sending Resolution #0967-R2017 and Ordinance #2017-1479 to the Lancaster County Council for review and consideration.

Recommendation:

Approve sending Resolution #0967-R2017 and Ordinance #2017-1479 to the Lancaster County Council for review and consideration.

STATE OF SOUTH CAROLINA

)

RESOLUTION NO. 0967-R2017

)

COUNTY OF LANCASTER

)

A RESOLUTION

TO STATE THE COMMITMENT OF LANCASTER COUNTY TO ENTER INTO A FEE AGREEMENT WITH RHYNO PARTNERS BR HOLDINGS, LLC, AND A SPECIAL SOURCE REVENUE CREDIT AGREEMENT WITH THE BLYTHE COMPANY, AN AFFILIATE OF RHYNO PARTNERS BR HOLDINGS, LLC; TO PROVIDE THE GENERAL TERMS OF THE FEE AGREEMENT AND SPECIAL SOURCE REVENUE CREDIT AGREEMENT INCLUDING THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO PROVIDE THAT THIS RESOLUTION IS AN INDUCEMENT RESOLUTION 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.

WHEREAS, Lancaster County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized and empowered under and pursuant to the provisions of the Fee in Lieu of Tax Simplification Act, codified as Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Act"), to enter into a fee in lieu of tax agreement (the "Fee Agreement") with respect to a project which requires the industry to make a payment of a fee in lieu of taxes, through which powers the industrial development of the State of South Carolina and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and the County and thus to utilize and employ the workforce, products, and natural resources of the State of South Carolina to benefit the general public welfare of the County by providing services, employment, and other public benefits not otherwise provided locally; and

WHEREAS, Rhyno Partners BR Holdings, LLC, on its own or together with one or more of its subsidiaries, affiliates, successors, assigns, sponsors, lessors, and others (collectively, the "Company"), desires to invest capital in the County in order to construct and install one or more facilities in the County and to lease said facility to the Blythe Company (the "Affiliate"), an affiliate of the Company (the "Project"), *provided, that*, approvals of various incentives contemplated for the Project are formalized by the State and/or County; and

WHEREAS, the Project is anticipated to result in an investment of at least \$2,500,000 in real and personal property and the creation of at least twenty-one (21) new, full-time jobs; and

WHEREAS, the Company has requested that the County enter into a Fee Agreement, thereby providing for fee-in-lieu of tax ("FILOT") payments ("FILOT Payments") and special source revenue credits ("SSRCs") with respect to the Project; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a "project" and that the Company's investment in the Project would constitute "economic development property" as such terms are defined in the Act and that the Project would serve the purposes of the Act; and

WHEREAS, 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 (collectively, the "MCP Laws"), the County is authorized to create a multi-county park (an "MCP Park") pursuant to a qualifying agreement with one or more contiguous South Carolina counties (the "Park Agreement"); and

WHEREAS, pursuant to the authority of Section 4-1-175 of the Code of Laws of South Carolina 1976, as amended (the "Special Source Revenue Credit Act"), the County is authorized to provide SSRCs in order to reimburse the Affiliate for the cost of its personal property investment in the Project; and

WHEREAS, the Affiliate has requested that the County enter into a Special Source Revenue Credit Agreement, thereby providing for SSRCs with respect to its investment in the Project; and

WHEREAS, the County intends by this Resolution to commit itself to (i) enter into a negotiated fee-in-lieu of tax agreement with the Company under the Act, (ii) provide for SSRCs against the FILOT Payments to be made by the Company in connection with the foregoing fee-in-lieu of tax arrangements, (iii) enter into a special source revenue credit agreement with the Affiliate pursuant to the Special Source Revenue Credit Act, (iv) provide for SSRCs against the amounts payable by the Affiliate as payments in lieu of taxes pursuant to the MCP Laws, and (v) locate the Project in an MCP Park.

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

1. 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, as defined in the Act, of five (5) years;
- b. the Company's commitment to invest at least \$2,500,000.00 in economic development property for the Project, not later than the end of the Investment Period (the "Investment Commitment");
- c. the Company's commitment to cause the creation of new full-time jobs (*i.e.*, at least thirty (30) hours per week), all with health care benefits and an hourly wage rate not less than nineteen dollars and two cents (\$19.02) ("New Full-Time Jobs") at the following employment levels and in the designated timeframes with the "Year" number referring to the year that corresponds with the earlier of either the year following the year in which economic development property is first placed in service or the first year SSRCs are taken, with Year 1 being the first year: (i) to have employed in New Full-Time Jobs an average of not less than eight (8) during Year 1, (ii) to have employed in New Full-Time Jobs an average of not less than thirteen (13) during Year 2, (iii) to have employed in

New Full-Time Jobs an average of not less than twenty (20) during Years 3 and 4, and (iv) to have employed in New Full-Time Jobs an average of not less than twenty-one (21) during Year 5 and each year thereafter in which the Company is receiving a special source revenue credit, *provided, however*, the hourly wage rate of nineteen dollars and two cents (\$19.02) shall be adjusted at the end of Year 5 to the County's then current per capita hourly wage rate as published by the South Carolina Department of Revenue (the "Jobs Commitment"), *provided, further, however*, that jobs relocated from other states to the Project shall be counted as New Full-Time Jobs;

- d. calculation of FILOT Payments using an assessment ratio of six percent (6%) and a millage rate fixed for the life of the FILOT of 301.1, if the Fee Agreement is executed in calendar year 2017, or 313.0, if the Fee Agreement is executed in calendar year 2018, *provided, however*, that in any year after December 31, 2019 in which the Company fails to have caused to be employed in New Full-Time Jobs an average of not less than ten (10), the Company shall pay to the County an additional fee equal to the difference between the total amount of property taxes that would have been paid by the Company had the Project been subject to *ad valorem* property taxes and the total amount of FILOT Payments actually made by the Company;
- e. a Termination Date, as defined in the Act, that is the last day of the property tax year which is nineteen (19) years following the first property tax year in which an applicable piece of economic development property is placed in service;
- f. a special source revenue credit equal to fifty percent (50%) of the FILOT Payments for five (5) consecutive years beginning not later than the year after the last property tax year of the Investment Period, *provided, however*, that in any year in which the Company fails to cause the Jobs Commitment to be met, the annual special source revenue credit shall be reduced in the same proportion that the Jobs Commitment is not met; and
- g. the Company's commitment to reimburse the County for its administrative expenses associated with the review, negotiation and preparation of all documentation and authorizing proceedings, including attorney's fees, for the Project and for its administrative expenses associated with the annual computation of the special source revenue credits.

3. The County further commits to enter into a special source revenue credit arrangement with the Affiliate for the Project, the terms of which shall be set forth in a Special Source Revenue Credit Agreement in form and manner satisfactory to the County and the Affiliate containing substantially the following terms:

- a. the Affiliate's commitment to cause the Company to meet the Investment Commitment;
- b. the Affiliate's commitment to meet the Job Commitment;

- c. a special source revenue credit equal to fifty percent (50%) of the amount payable by the Affiliate as payments in lieu of taxes pursuant to the MCP Laws for five (5) consecutive years beginning not later than the year after the last property tax year of the Investment Period, *provided, however*, that in any year in which the Company fails to cause the Jobs Commitment to be met, the Affiliate's annual special source revenue credit shall be reduced in the same proportion that the Jobs Commitment is not met; and
- d. the Affiliate's commitment to reimburse the County for its administrative expenses associated with the review, negotiation and preparation of all documentation and authorizing proceedings, including attorney's fees, for the Project and for its administrative expenses associated with the annual computation of the special source revenue credits.

4. Council shall use its best efforts to adopt a new Park Agreement or amend an existing Park Agreement to include the land on which the Project is located, to the extent that the land, or any portion thereof, is not currently subject to a Park Agreement. The period of time for inclusion of the land in an MCP Park shall be for the longer of the period that either the Fee Agreement or Special Source Revenue Credit Agreement is effective.

5. (A) The County shall use its best efforts to (i) assist the Company and the Affiliate in locating potential grants from the state and utilities for any public infrastructure costs associated with the Project, (ii) assist the Company and the Affiliate in applying for state economic development incentives that flow through the County, and (iii) assist the Company and the Affiliate in securing job training through the ReadySC program.

(B) As used in this Section 5, "best efforts" include, without limitation, filing all required and necessary documents and applications relating to the grants or assistance, formally recommending approval of the grants or assistance and making the grants or assistance available at the commencement of the construction of the Project if provided by the granting or assisting entity and giving the Company or the Affiliate written evidence of the grants or assistance when approved.

6. Council's commitments and agreements contained in Sections 4 and 5 are subject to the exercise of discretion by granting or approving entities other than the County and the exercise of that discretion is not controlled by the County.

7. Council shall approve the Fee Agreement, the Special Source Revenue Credit 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.

8. 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.

9. 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.

10. This Resolution takes effect upon its adoption.

Adopted this _____ day of _____, 2017.

LANCASTER COUNTY, SOUTH CAROLINA

[SEAL]

Steve Harper, Chair, County Council

Larry Honeycutt, Secretary, County Council

Attest:

Sherrie Simpson, Clerk to Council

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STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER) ORDINANCE NO. 2017-1479

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND AMONG LANCASTER COUNTY AND RHYNO PARTNERS BR HOLDINGS, LLC, PROVIDING FOR, AMONG OTHER THINGS, THE PAYMENT OF A FEE-IN-LIEU OF TAXES AND THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO AUTHORIZE THE EXECUTION OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND AMONG LANCASTER COUNTY AND THE BLYTHE COMPANY, LLC, PROVIDING FOR, AMONG OTHER THINGS, THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO EXPRESS THE INTENTION OF COUNCIL TO PROVIDE MONIES TO THE ECONOMIC DEVELOPMENT FUND.

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 the Code of Laws of South Carolina 1976, as amended (the "Code"), and particularly Title 12, Chapter 44 of the Code (the "Simplified FILOT 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 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended (the "Multi-County Park Act"), to create or expand, in conjunction with one or more other counties, a multi-county business or industrial park in order to facilitate the economic development of the County, in part, through the use of special source revenue credits (as authorized by Sections 4-1-175, 4-29-68 and 12-44-70 of the Code) that defray, in part, 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) Rhyno Partners BR Holdings, a North Carolina limited liability company (the "Sponsor") is considering investing in real property and constructing certain real estate improvements located in the County which would constitute a project within the meaning of the Simplified FILOT Act and which are eligible for inclusion as economic development property, the cost of which is estimated to be at least Two Million Five Hundred Thousand Dollars (\$2,500,000.00), in order to construct a sales, research and development, and distribution facility which shall be leased to The Blythe Company, LLC (the "Affiliate"), an affiliate of the Sponsor (the "Project");

(d) pursuant to Resolution No. 0967-R2017, adopted October 23, 2017, 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, and further providing for the agreement of the County to enter into a special source revenue credit agreement with the Affiliate to provide for special source revenue credits against the amount payable by the Affiliate as payments in lieu of taxes pursuant to the Multi-County Park Act;

(e) the Sponsor has caused to be prepared and presented to the Council the form of the Fee Agreement by and between the County and the Sponsor (the "Fee Agreement"), which provides for fee-in-lieu of tax payments utilizing a six percent (6%) assessment ratio and fixed millage rate of 301.1 mills for a period of twenty (20) years for the Project or each component thereof placed in service during the Investment Period (as defined in the Fee Agreement), including any extension to the Investment Period to which the County and the Sponsor agree, and also provides for special source revenue credits equal to fifty percent (50%) of the fee-in-lieu of tax payments for five (5) consecutive years in which fee-in-lieu of tax payments are required to be made thereunder;

(f) the Affiliate has caused to be prepared and presented to the Council the form of the Special Source Revenue Credit Agreement by and between the County and the Affiliate (the "SSRC Agreement"), which provides for special source revenue credits for five (5) consecutive years equal to fifty percent (50%) of the annual amount payable by the Affiliate as payments in lieu of taxes pursuant to the Multi-County Park Act to the County due with respect to the Affiliate's additional investment in the Project; and

(g) it appears that the Fee Agreement and the SSRC Agreement (collectively, the "Agreements"), both of which are attached to this ordinance, are in appropriate form and are appropriate instruments to be executed and delivered by the County for the purposes intended.

Section 2. Approval of Agreements.

Subject to the provisions of Section 4 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 Affiliate to expand or locate an industrial facility in the State, the Agreements are 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 Simplified FILOT Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Simplified FILOT 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. Approval and Execution of the Agreements.

The form, terms, and provisions of the Fee Agreement, attached hereto as Exhibit A, and the SSRC Agreement, attached hereto as Exhibit B, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if both Agreements 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 Agreements in the name of and on behalf of the County, and thereupon to cause the respective Agreements to be delivered to the Sponsor and to the Affiliate. The Agreements are to be substantially in 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 Agreements attached to this ordinance.

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 Agreements. 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 Agreements 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 Agreements and the performance of all obligations of the County under and pursuant to the Agreements.

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.

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, resolutions or orders, 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

Dated this _____ day of _____, 2017.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Larry Honeycutt, Secretary, County Council

ATTEST:

Sherrie M. Simpson, Clerk to Council

First Reading:	October 23, 2017	(Tentative)
Second Reading:	November 13, 2017	(Tentative)
Public Hearing:	November 13, 2017	(Tentative)
Third Reading:	November 27, 2017	(Tentative)

Exhibit A to Ordinance No. 2017-1479

Fee Agreement

See attached.

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Exhibit B to Ordinance No. 2017-1479

Special Source Revenue Credit Agreement

See attached.

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FEE AGREEMENT

by and between

LANCASTER COUNTY, SOUTH CAROLINA,

and

RHYNO PARTNERS BR HOLDINGS, LLC

Dated as of November 27, 2017

FEE AGREEMENT

This FEE AGREEMENT (this "Agreement") is dated as of November 27, 2017, 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 RHYNO PARTNERS BR HOLDINGS, LLC, a North Carolina limited liability company ("Sponsor" and "Company" and, together with any subsequently joined Sponsor Affiliate(s), the "Companies").

WITNESSETH:

WHEREAS, the County, acting by and through its County 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 manpower, 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 Companies propose to construct a suitable facility which will be leased to The Blythe Company, LLC, an affiliate of the Company, to be operated as part of its sales, research and development, and distribution business (the "Project"); and

WHEREAS, the Companies anticipate that the Project will result in the creation of at least twenty-one (21) new, full-time jobs and an investment of at least \$2,500,000 in the County; and

WHEREAS, the County Council approved on October 23, 2017, Resolution No. 0967-R2017 (the "Inducement Resolution") to identify, reflect and induce the Project under the Act and to state the commitment of the County to, among other things, enter into this Agreement; and

WHEREAS, as a result of the Companies locating the Project in the County, the Companies requested that the County complete the FILOT arrangement referred to in the Inducement Resolution by entering into this Agreement with the Companies pursuant to the Act, and the Companies elect to enter into such FILOT arrangement with the County in an effort to implement the terms of the Project and allow the Companies to make FILOT payments pursuant to the Act; and

WHEREAS, it is presently anticipated, but not required, that Sponsor will initially own that portion of the Project comprised of the Land (as defined herein) and certain real property improvements now or hereafter constructed thereon; and

WHEREAS, for the Project, the parties have also determined that Sponsor is a Project Sponsor, and that Sponsor's investment in 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 Agreement with the Companies, 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 Companies to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Companies agree as follows:

ARTICLE I

DEFINITIONS AND RECAPITULATION

Section 1.01. Statutorily Required Recapitulation.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Companies 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:
Rhyno Partners BR Holdings, LLC; Lancaster County, South Carolina.
2. County, street address, parcel number or other location identifier of the Project and property to be subject to this Agreement:

Old Lancaster Highway
Lancaster County, South Carolina
Portion of Parcel No. 0007-00-025.00.
3. Minimum investment agreed upon: \$2,500,000.
4. Length and term of this Agreement: 20 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%, except as otherwise provided in the Agreement.
6. Millage rate applicable for each year of this Agreement: 301.1 mills, except as otherwise provided in the Agreement.

7. 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 Economic Development Property in amounts equal to 50% of Negotiated FILOT Payments for each of the first five (5) consecutive years in which Negotiated FILOT Payments are required to be made hereunder;
- (d) Payment will not be modified using a net present value calculation; and
- (e) Replacement property provisions will apply.

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 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.

“*Affiliate*” shall mean any person or entity directly or indirectly controlling, controlled by, or under common control with such other person or entity. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the person or entity, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” shall mean this Fee Agreement by and among the County and the Companies, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of November 27, 2017.

“*Code*” shall mean the Code of Laws of South Carolina 1976, as amended through the date hereof, unless the context clearly requires otherwise.

“*Company*” shall mean the Sponsor.

“*Companies*” shall mean the Sponsor together with any subsequently joined Sponsor Affiliate(s).

“*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 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 and in this Agreement.

“*Equipment*” shall mean all machinery, equipment, furnishings, and other personal property acquired by Sponsor and installed as part of the Project during the Investment Period in accordance with this Agreement.

“*Event of Default*” shall mean an Event of Default as defined in Section 11.01 hereof.

“*Existing Property*” shall mean property 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) the Land; (b) property acquired or constructed by Sponsor 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 (c) modifications which constitute an expansion of Existing Property.

“*FILOT*” shall mean the fee-in-lieu of taxes, which Sponsor is obligated to pay to the County pursuant to Section 5.01 hereof.

“*FILOT Payments*” shall mean the payments to be made by Sponsor pursuant to Section 5.01 hereof.

“*FILOT Revenues*” shall mean the revenues received by the County from the payment of the FILOT.

“*Investment Commitment*” shall mean the agreement of the Companies to make investments with respect to the Project as set forth in Section 4.01(a) of this Agreement.

“*Investment Period*” shall mean the period beginning with the first day that Economic Development Property is purchased or acquired and ending on the date that is five (5) years from the end of the property tax year in which this Agreement is executed by the Companies and the County, unless extended by agreement of the County and the Companies pursuant to Section 12-44-30(13) of the Code.

“*Jobs Commitment*” shall mean the commitment of Sponsor to cause the creation of jobs with respect to the Project as set forth in Section 4.01(b) of this Agreement.

“*Land*” shall mean the real estate upon which the Project is to be located, as described in Exhibit A attached hereto. Additional real estate may be included in Exhibit A by amendment as provided in the Section 12.12 of this Agreement.

“*Multi-County Park*” means the multi-county park established pursuant to the Multi-County Park Act and An Agreement for the Development of a Joint Industrial and Business Park, dated December 5, 2005, by and between the County and Chester County, South Carolina, which was authorized and approved by the County by passage of Ordinance No. 701, and Chester County, South Carolina, by passage of Ordinance No. 12-05-05-1.

“*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.

“*New Full-Time Job*” means a new, full-time job (*i.e.*, at least thirty (30) hours per week), with health care benefits. As used in this definition and as applicable to the Project, “New Full-Time Job” includes only those jobs created for the Project in or after the first year in which Economic Development Property is purchased or acquired for the Project; *provided, however*, that jobs relocated from other states to the Project shall be counted as New Full-Time Jobs.

“*Non-Qualifying Property*” shall mean that portion of the Project consisting of: (i) property as to which Sponsor incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; (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 Companies have terminated the Negotiated FILOT pursuant to Section 4.03(a)(iii) hereof; and (iv) property that would otherwise qualify as Economic Development Property, but is primarily used as retail space, hotels or restaurants; provided, however, that restaurants located on the Project that primarily serve employees of the Companies or their Affiliates and the families and guests of such employees shall not be deemed to be “Non-Qualifying Property.”

“*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 or on behalf of the Companies, 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 Commitment*” shall mean the (i) Investment Commitment, and (ii) Jobs Commitment.

“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 any Company dedicates 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.

“Special Source Revenue Credits” shall mean the Special Source Revenue Credits described in Section 5.01 hereof.

“Sponsor Affiliate” shall mean any entity who agrees to be bound by the terms and provisions of this Agreement and is approved by the County in writing pursuant to the provisions of Section 8.04 of this Agreement; *provided, however*, The Blythe Company shall not be a Sponsor Affiliate.

“State” shall mean the State of South Carolina.

“Term” shall mean the term of this Agreement, as set forth in Section 10.01 hereof.

“The Blythe Company” shall mean The Blythe Company, LLC, a North Carolina limited liability company, which is an Affiliate of the Sponsor and, solely for purposes of satisfying the Jobs Commitment in Section 4.01(b) hereof, shall be considered collectively with the Companies in calculating the number of New Full-Time Jobs.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Code, as amended through the date hereof.

“Wage Requirement” means Nineteen Dollars and Two Cents (\$19.02) per hour, and, for purposes of satisfying the Wage Requirement, it is applicable in Years 1 through 5 with Year 1 being the first year in which Special Source Revenue Credits are taken (the “Initial Hourly Wage”). The County shall change the Initial Hourly Wage at the end of the first five-year period (and at the end of every five-year period thereafter, if applicable) to not more than one hundred percent (100%) of the Department of Revenue’s then most recently published average hourly wage for the County and the changed Wage Requirement shall apply to the subsequent five-year period. The County shall provide notice to the Companies and The Blythe Company of any adjustment to the Wage Requirement.

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 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) Sponsor is a limited liability company, validly existing and in good standing under the laws 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) The agreements with the County with respect to the FILOT have been instrumental in inducing Sponsor to locate its portion of 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 Sponsor are pending or threatened against or affecting 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) The income tax year of Sponsor for federal and state income tax purposes ends December 31.

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

(f) Sponsor intends to lease the Project to The Blythe Company to be operated as part of its sales, research and development, and distribution business. The Project constitutes a "project" and the Sponsor's investment in the Project constitutes "economic development property" as provided under the Act.

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 Companies in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the portion of the Project qualifying as Economic Development Property until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. Each Company acknowledges 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 such Company'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. Invalidity. The parties acknowledge that the intent of this Agreement is to afford the Companies the benefits of the Negotiated FILOT Payments in consideration of the Companies' 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, for any reason, the Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Economic Development Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under the Code, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Companies and the County agree that there shall be due hereunder, with respect to the portion of the Economic Development Property affected by such circumstances, *ad valorem* taxes and that, to the extent permitted by law, each Company shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive other tax credits which would be due if such Company were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are required by law to be subject to retroactive adjustment, then there shall be due and payable by such Company to the County with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with, but only if required by law, interest on such deficiency as provided in Section 12-54-25(D) of the Code. Each Company agrees that if this Agreement is reformed as provided in this Section or if retroactive adjustments are made, then under no circumstances shall the County be required to refund or pay any monies to the Companies.

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 3.03 unless the Companies have otherwise complied with or provided satisfactory evidence to the County that it intends to comply with its obligations and responsibilities under this Agreement.

Section 3.04. Multi-County Park Status. The County agrees to maintain the Land in the Multi-County Park until the date this Agreement is terminated. If it becomes necessary to move the Land from one multi-county park to another prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in a multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be 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.

ARTICLE IV

INVESTMENT BY COMPANIES IN PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

Section 4.01. Investment by Companies in Project.

(a) For the Project, the Companies agree and commit to invest at least Two Million Five Hundred Thousand Dollars (\$2,500,000) in Economic Development Property by the end of the Investment Period. The investment amount shall not include any amount paid by any Company for real estate improvements on the Land existing as of the date of this Agreement. Investments made by Sponsor and Sponsor Affiliates in Economic Development Property shall be included in any determination whether the Companies have fulfilled their commitment made in this Section to invest in the Project.

(b) For the Project, the Sponsor agrees and commits to cause the Companies and The Blythe Company, collectively, to create and maintain the number of New Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, by year as follows: (i) Year 1 – not less than 8; (ii) Year 2 – not less than 13; (iii) Year 3 – not less than 20; (iv) Year 4 – not less than 20; and (v) Year 5 – not less than 21 (the “Jobs Commitment”). As used in this subsection (b), the “Year” number refers to the year that corresponds with the earlier of either the year following the year in which Economic Development Property is first placed in service or the first year Special Source Revenue Credits are taken, with Year 1 being the first year. The number of New Full-Time Jobs shall be based on the average number of New Full-Time Jobs for each month during the year.

Section 4.02. Reporting and Filing.

(a) Each Company agrees to provide a copy of Form PT-443 filed with the Department of Revenue no later than thirty (30) days after execution and delivery of this Agreement to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County. Each year during the term of this Agreement,

each Company shall deliver to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County a copy of their most recent annual filings made with the Department of Revenue with respect to the Project, no later than thirty (30) days following delivery thereof to the Department of Revenue.

(b) (1) Sponsor agrees, as soon as reasonably practicable following the end of each tax year of the Sponsor, to submit to the County Economic Development Director a certification on Sponsor letterhead listing the amount of capital investment and aggregate New Full-Time Jobs maintained by the Companies and/or The Blythe Company at the end of such tax year.

(2) For purposes of determining compliance with the Jobs Commitment, Sponsor agrees to provide or to cause The Blythe Company to provide, as applicable, to the County Economic Development Director, by January 30 of each year, a copy of the following filings with the State (if required to file by the State) for the preceding calendar year: (i) reports submitted to the South Carolina Coordinating Council for Economic Development with respect to any Job Development Credits awarded in connection with the Project; (ii) Department of Revenue Form SC SCH. TC 4 (New Jobs Credit); and (iii) South Carolina Department of Employment and Workforce quarterly contribution and wage reports (such as Form UCE 120). Sponsor agrees to redact any personally identifying information and proprietary and confidential information of Sponsor or The Blythe Company prior to submitting any form to the County Economic Development Director. In lieu of providing any of the forms specifically identified in this subsection, the Company and the County Economic Development Director may agree on an alternative method for the Company to demonstrate compliance with the Jobs Commitment.

(c) (1) Each Company agrees to maintain, and the Sponsor agrees to cause The Blythe Company to maintain, such books and records with respect to the Project as will permit the identification of those portions of the Project placed in service in each property tax year during the Investment Period, the amount of investment with respect thereto and its computations of all FILOT Payments made hereunder and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act, including the reports described in subsection (a) and (b) of this section (collectively, "Filings").

(2) Each 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 of Companies' 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 any Company to protect such Company'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.

(d) The County acknowledges and understands that the Companies 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 Companies' operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Companies and could have a significant detrimental impact on the Companies' 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 Companies, their 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 Companies and give the Companies the opportunity to contest the release.

Section 4.03 Modification of Project.

(a) As long as no event of default exists hereunder, the Companies shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) Each Company may, at its own expense, add to the Project any real and personal property as such Company in its discretion deems useful or desirable.

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

(iii) Each Company may, at any time in its 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) 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 Companies 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) With respect to any portion of the Project consisting of undeveloped land, land under development, other property not yet placed in service or 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 undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property were taxable; and

(ii) With respect to those portions of the Project consisting of Economic Development Property, for each of the twenty 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) of this Section 5.01 (a “Negotiated FILOT”).

(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 equal to 301.1 mills, for the Term, 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) The FILOT Payments are to be recalculated:

(i) to reduce such payments in the event a Company disposes 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, based on the methodology set forth in Section 5.01(c) hereof, in the event a Company adds property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if a Company elects to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i) above, as permitted by Section 4.03(a)(iii).

(e) Special Source Revenue Credits shall be granted to the Economic Development Property in amounts equal to fifty percent (50%) of Negotiated FILOT Payments for the first five (5) consecutive years in which Negotiated FILOT Payments are required to be made hereunder.

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Companies 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 Companies to the County in property taxes if the Companies 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 set forth in Section 3(g) of Article X of the Constitution of the State of South Carolina would otherwise apply).

(g) Upon any Company's installation of any Replacement Property for any portion of the Economic Development Property removed under Section 4.03 hereof and sold, scrapped, or disposed of by any Company, 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 the 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 the 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 twenty-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 Companies and the County express their intentions that such payments be reformed so as to afford the Companies 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 Companies may, at the Companies' 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 Companies and the County agree that the Companies shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in Section 5.01(b)(i) hereof. In such event, the Companies 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 Companies 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 Companies.

(i) For the Project, this Agreement is automatically terminated in the event that the investment in the Project in land, buildings, and personal property, including machinery and

equipment, by Sponsor does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the end of the Investment Period (“**Act Minimum Investment Requirement**”). If terminated pursuant to this subsection (i), the Negotiated FILOT Payments shall revert retroactively to payments equivalent to what the *ad valorem* taxes would have been with respect to the property absent this Agreement. At the time of termination, the Companies shall pay to the County an additional fee equal to the difference between the total amount of property taxes that would have been paid by the Companies had the project been taxable, taking into account exemptions from property taxes that would have been available to the Companies, and the total amount of fee payments actually made by the Companies. This additional amount is subject to interest as provided in Section 12-54-25. The Companies 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 any Company.

(j) The Companies agree that a portion of the Special Source Revenue Credits for a year shall be reduced to the extent that the Sponsor fails to cause the Jobs Commitment to be met in the prior year, in a percentage amount equal to (A) the amount by which the number of jobs satisfying the Jobs Commitment at the Project for such year is less than the number of jobs contained in the Jobs Commitment for such year, *divided by* (B) the number of jobs contained in the Jobs Commitment for such year. For example, and by way of example only, if, for Year 3, the Jobs Commitment provides for the maintenance of not less than 20 jobs satisfying the Jobs Commitments, the actual number of jobs satisfying the Jobs Commitment is 16, and the Special Source Revenue Credit to which the Companies would otherwise be entitled for Year 4 is Fifty Thousand Dollars (\$50,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (j) would be calculated as follows:

Jobs Commitment for Year 3: 20 New Full-Time Jobs

Jobs Maintained at the Project for Year 3: 16 New Full-Time Jobs

Special Source Revenue Credit reduction for Year 4:

$$[20 - 16] / 20 = 1 / 5 = 20.0\%$$

$$20.0\% \times \$50,000.00 = \mathbf{\$10,000.00}$$

(k) Beginning with the tax year following the end of the second (2nd) tax year after Economic Development Property is first placed in service, and for each year thereafter, Sponsor and Sponsor Affiliates agree that the Companies shall pay to the County a fee equal to the difference between the Negotiated FILOT Payments made by the Company and the FILOT Payment that would be due for the Economic Development Property if calculated, notwithstanding the provisions of Section 5.01(c), using the then current millage rate and the assessment ratios that would be applicable to the Economic Development Property if it were subject to *ad valorem* taxes (the “Hypothetical FILOT Payment”), if Sponsor in the immediately prior year failed to cause to be maintained for the Project at least ten (10) New Full-Time Jobs.

As an example of the calculation set forth in this subsection (k), and by way of example only, assume Economic Development Property is first placed in service with respect to the Project in 2017, and that in tax year ending December 31, 2019, that the maintained number of New Full-Time Jobs was 8, that the millage rate applicable for tax bills to be sent in the following year is 375, and all of the Economic Development Property classified as personal property would have a 10.5% assessment ratio applied if such property were subject to *ad valorem* taxation, then, the Hypothetical FILOT Payment for the tax year ending December 31, 2020, would be computed using the millage rate of 375 (instead of 301.1) and the 10.5% assessment ratio for the Economic Development Property classified as personal property (instead of 6%).

(l) Unless otherwise provided by the Act, any amounts due to the County under this Section 5.01 by virtue of the application of subsections (h) through (k) shall be paid within 90 days, following written notice thereof from the County to the Companies.

(m) Notwithstanding any other provision of this Agreement, the Companies acknowledge and agree that County's obligation to provide the FILOT incentive and the Special Source Revenue Credits ends, and this Agreement is terminated, if the Companies and The Blythe Company cease operations. For purposes of this Section 5.01(m), "**cease operations**" means permanent closure of the facility. The Companies agree that if this Agreement is terminated pursuant to this Section 5.01(m), that under no circumstance shall the County be required to refund or pay any monies to the Companies.

ARTICLE VI

PAYMENTS BY COMPANIES

Section 6.01. Defaulted Payments. In the event any Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of such Company until the amount in default shall have been fully paid. The Companies agree that the collection and enforcement of the defaulted payment shall be 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, any Company, in its sole discretion, may determine whether or not to repair or replace the same. The parties hereto agree that if the Companies 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, each Company shall use the Project for any lawful purpose that is 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), each Company 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 such Company, to one or more Related Entities (as defined in Section 9.01 below) without adversely affecting the benefits of such Company or its assignees pursuant to any such agreement or the Act. Such Company 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 such Company, 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. Sponsor releases 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”) 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. Sponsor further agrees 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 Companies in the performance of any covenant or agreement on the part of the Companies 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 any Company, 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 any Company, 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 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 Companies, and the Companies 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 its sole discretion; provided the Companies shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Companies have the ability to, and do, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, 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 Companies reasonably determines that a conflict of interest exists between the County and the Companies, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Companies 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 Companies 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.

Section 8.04. Sponsors and Sponsor Affiliates. Sponsor may designate from time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Simplified FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Companies and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of Sponsor, Sponsor Affiliate or other Sponsors or Sponsor Affiliates, or other Persons described in Section 8.02 hereof. All other Sponsors or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30(19) or (20) and Section 12-44-130 of the Simplified FILOT Act must be approved by the County in writing. To the extent that the aggregate investment in the Project by the end of the Investment Period by all Sponsors and Sponsor Affiliates exceeds \$5,000,000, to the extent permitted by Section 12-44-30(19) of the Simplified FILOT Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the FILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Act Minimum Investment Requirement by the end of the Investment Period. Sponsor shall provide the County and the Department of Revenue with written notice of any other Sponsor or Sponsor Affiliate designated pursuant to this

Section 8.04 within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service property to be used in connection with the Project and subject to the Negotiated FILOT Payment, all in accordance with Section 12-44-130(B) of the Simplified FILOT Act.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. Each Company 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 Sponsor, Sponsor Affiliate, or any other Affiliate of the Sponsor, including The Blythe Company (collectively, the “Related Entities”), or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), such Company 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 such Company hereunder, or where the County consents in writing, no such transfer shall affect or reduce any of the obligations of such Company hereunder, but all obligations of such Company hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety; (iii) such Company, 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) such Company and the transferee shall comply with all other requirements of the Transfer Provisions.

Each Company acknowledges 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 Payment or result in penalties under the Act absent compliance by the Companies 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 Companies 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 Companies’ 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 Companies 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 twenty 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 Companies may agree to terminate this Agreement at any time, or the Sponsor may, at its 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. In the event that this Agreement is terminated by the operation of this Section 10.02 at any time during the initial Investment Period prior to the Companies' meeting the Project Commitment, amounts due to the County as a result thereof, if any, shall be calculated as provided in Section 5.01(i) hereof. The County's rights to receive payment for such *ad valorem* taxes and its rights to enforce the terms of this Agreement shall survive termination of this Agreement.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

Section 11.01. Events of Default by Companies.

(a) 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 Companies:

(1) 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; or

(2) if default shall be made by any Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraph (1), and such default shall continue for 90 days after the County shall have given the Companies written notice of such default, provided, such Company shall have such longer period of time as necessary to cure such default if such Company proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; and provided further, that no Event of Default shall exist under this paragraph (2) during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which such Company has contested the occurrence of such default.

(b) The failure of the Companies to meet any Project Commitment set forth herein shall not be deemed to be an Event of Default under this Agreement.

Section 11.02. Remedies on Event of Default by Company. 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 Companies 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 Companies pursuant to Section 4.02(c); 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 Companies under this Agreement.

Section 11.03. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, any Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation, a suit for mandamus or specific performance. 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 Companies 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 Companies 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 Companies of any or all such other rights, powers or remedies.

Section 12.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 12.03. Intentionally Omitted.

Section 12.04. Administration Expenses.

(a) The Companies agree 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 Companies agree 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 FILOT Payments and any special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at Five Hundred and No/100 dollars (\$500.00).

Section 12.05. Rules of Construction. The County and the Companies acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 12.06. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Companies 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.

(a) As to the County:

County of Lancaster, South Carolina
ATTN: Steve Willis, County Administrator
101 N. Main St. (29720)
P.O. Box 1809 (29721-1809)
Lancaster, South Carolina
Phone: (803) 416-9300
Email: swillis@lancastercountysc.net

With a copy to (which shall not constitute notice):

Mr. Jamie Gilbert
Economic Development Director, Lancaster County
P.O. Box 1809
Lancaster, South Carolina 29721
Telephone: (803) 286-3633
Fax: (803) 416-9497
Email: jgilbert@lancastercountysc.net

(b) As to the Sponsor:

Rhyno Partners BR Holdings, LLC
ATTN: E. Rhyne Davis
1111 Metropolitan Avenue, Suite 1070
Charlotte, North Carolina 28204
Telephone: (704) 219-9962
Email: rhyne@rhynopartners.com

With a copy, in each case, to (which shall not constitute notice):

Bradley T. Van Hoy, Esq.
Moore & Van Allen, PLLC
100 North Tryon Street, Suite 4700
Charlotte, North Carolina 28202
Phone: (704) 331-1000
Email: bradvanhoy@mvalaw.com

Section 12.07. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 12.08. 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 12.09. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 12.10. 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 12.11. 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 12.12. 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 both parties.

Section 12.13. 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 12.14. Force Majeure. The Companies 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 Companies' reasonable control.

IN WITNESS THEREOF, 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 Companies have 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

Steve Harper, Chair, County Council

Larry Honeycutt, Secretary, County Council

ATTEST:

Sherrie M. Simpson, Clerk to Council

RHYNO PARTNERS BR HOLDINGS, LLC

E. Rhyne Davis, Manager

EXHIBIT A

Land

Portion of Tax Map No. 0007-00-025.00.

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SPECIAL SOURCE REVENUE CREDIT AGREEMENT

This SPECIAL SOURCE REVENUE CREDIT AGREEMENT (the "Agreement") is made and entered into this 27th day of November, 2017 (the "Effective Date") by and between Lancaster County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina (the "County"), and The Blythe Company, LLC, a North Carolina limited liability company ("The Blythe Company").

WITNESSETH:

ARTICLE I RECITATION OF FACTS

As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

Section 1.01. Multi-County Park Act.

The County is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), specifically, Sections 4-1-170, 4-1-172, and 4-1-175 and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof (the "Multi-County Park Act"), to create or expand, in conjunction with one or more other counties, a multi-county business or industrial park in order to facilitate the economic development of the County, in part, through the use of special source revenue credits. The County and Chester County, South Carolina has established a multi-county park pursuant to the Multi-County Park Act and An Agreement for the Development of a Joint Industrial and Business Park, dated December 5, 2005, by and between the County and Chester County, South Carolina, which was authorized and approved by the County by passage of Ordinance No. 701, and Chester County, South Carolina, by passage of Ordinance No. 12-05-05-1 (the "Multi-County Park").

Section 1.02. Special Source Revenue Credit Act.

The County is authorized and empowered under and pursuant to the provisions of Section 4-1-175 of Multi-County Park Act (the "Special Source Revenue Credit Act"), to provide for special source revenue credits against the payments in lieu of taxes pursuant to Multi-County Park Act for property located in a multi-county industrial park in order to provide infrastructure serving the County or a project, and for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County.

Section 1.03. Investment and Job Creation.

Rhyno Partners BR Holdings, LLC (the "Sponsor") is committed to the investment of at least \$2,500,000 in the County with respect to certain real estate and real property improvements (the "Project") pursuant to that certain Fee Agreement dated as of November 27, 2017 between the County and the Sponsor (the "Fee Agreement"). The Blythe Company, an affiliate of the

Sponsor, plans to lease the Project from the Sponsor in order to operate a sales, research and development, and distribution facility (the "Facility"). In operating the Facility, The Blythe Company proposes to invest in additional personal property (the "Additional Investment"), and to create at least twenty-one (21) New Full-Time Jobs (as defined in the Fee Agreement) for the Project in satisfaction of the Jobs Commitment (as defined in the Fee Agreement) on behalf of the Sponsor.

Section 1.04. Request for Special Source Revenue Credits.

The Blythe Company has requested the County to provide special source revenue credits (the "Special Source Revenue Credits") pursuant to the Special Source Revenue Credit Act for the purpose of financing a portion of the cost of designing, acquiring, constructing, improving, or expanding (a) the infrastructure serving the County or the Project or (b) for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise ("Reimbursable Expenditures"), all as more fully set forth in this Agreement.

Section 1.05. Approval of Special Source Revenue Credits.

The County has given due consideration to the economic development impact of the Project and Facility and, pursuant to Ordinance No. 2017-1479 enacted on November 27, 2017 (the "Ordinance"), the County Council (the "County Council") approved this Agreement which provides special source revenue credits to The Blythe Company.

**ARTICLE II
SPECIAL SOURCE REVENUE CREDITS**

Section 2.01. Multi-County Park Status.

The County agrees to maintain the Land (as that term is defined in the Fee Agreement) in the Multi-County Park until a date that is no sooner than the date this Agreement is terminated. If it becomes necessary to move the Land from one multi-county park to another prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in a multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be 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.

Section 2.02. Special Source Revenue Credits.

a. Pursuant to the Special Source Revenue Credit Act, the County agrees to provide Special Source Revenue Credits to reimburse The Blythe Company for a portion of the cost of Reimbursable Expenditures in an amount equal to fifty percent (50%) of the annual amount payable by The Blythe Company as payments in lieu of taxes pursuant to the Multi-County Park

Act to the County due with respect to the Additional Investment for the first five (5) consecutive years in which such payments are required to be made.

b. Notwithstanding anything in this Agreement to the contrary, The Blythe Company is entitled to a special source revenue credit only to the extent that, as of the date that a special source revenue credit is to be applied, the total cost of the Reimburseable Expenditures is at least equal to the aggregate amount of any special source revenue credit previously provided and the amount of the special source revenue credit to be provided for the year in question. Upon request of the County, The Blythe Company shall provide documentation to the County reflecting the cost of the Reimburseable Expenditures.

Section 2.03. Reduction of Credits.

a. The Blythe Company agrees that a portion of the Special Source Revenue Credits for a year shall be reduced to the extent that the Jobs Commitment under the Fee Agreement is not met in the prior year. The reduction of the Special Source Revenue Credit required by this Agreement shall be computed and applied in the same manner as the reduction in the special source revenue credit provided in the Fee Agreement is computed and applied.

b. The Blythe Company acknowledges and agrees that the County's obligation to provide the Special Source Revenue Credits ends, and this Agreement is terminated, if (i) the investment in the Project in land, buildings, and personal property, including machinery and equipment, by Sponsor does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the end of the Investment Period (as defined in the Fee Agreement), or (ii) the Facility ceases operations. For purposes of this subsection, "ceases operations" means permanent closure of the facility. The Blythe Company agrees that if this Agreement is terminated pursuant to this subsection, then under no circumstance shall the County be required to refund or pay any monies to The Blythe Company.

Section 2.04. Obligation of County.

This Agreement imposes no obligation on the County for the payment of money. Any obligation which may be imposed on the County by this Agreement does not and shall never constitute an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers.

Section 2.05 Pecuniary Liability.

No breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power.

ARTICLE III GENERAL PROVISIONS

Section 3.01. Assignment.

The County agrees that, to the maximum extent permitted by the Special Source Revenue Credit Act, The Blythe Company may assign (including, without limitation, absolute, collateral, and other assignments) all or a part of its rights or obligations under this Agreement, or any other agreement related hereto, or transfer any and all assets of The Blythe Company, to the Sponsor or one or more other Related Entities (as defined in the Fee Agreement) without adversely affecting the benefits of The Blythe Company or its assignees pursuant to any such agreement or the Special Source Revenue Credit Act. Any such assignment or transfer to one or more entities other than the Sponsor or a Related Entity must be approved in advance or subsequently ratified by the County.

Section 3.02. Right to Inspect; Confidential Information.

a. The Blythe 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 Facility and to have access to and examine and inspect all of The Blythe Company's books and records pertaining to the Project and the Facility. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by The Blythe Company to protect The Blythe Company's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project and Facility shall be at the County's expense.

b. The County acknowledges and understands that The Blythe Company may have and maintain at the Project and Facility certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the The Blythe Company's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to The Blythe Company and could have a significant detrimental impact on The Blythe 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 Blythe Company, their 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 Blythe Company and give The Blythe Company the opportunity to contest the release.

Section 3.03. Amendments and Termination.

The Blythe Company and the County may amend or terminate this Agreement from time to time by subsequent mutual written agreement as may be permitted under the Special Source Revenue Credit Act.

Section 3.04. Severability.

In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any provision or part of a provision of this Agreement.

Section 3.05. Headings.

The headings and captions contained in this Agreement are included for convenience only and shall not be considered a part of this Agreement or affect in any manner the construction or interpretation of this Agreement.

Section 3.06. 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 3.07. Counterparts.

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures hereto and thereto were upon the same instrument.

Section 3.08. Representations and Warranties of 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 Multi-County Park Act and the Special Source Revenue Credit Act (collectively, the “Acts”) to enter into this Agreement; (iii) it has approved this Agreement in accordance with the procedural requirements of the Acts and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Agreement.

Section 3.09. Representations and Warranties of The Blythe Company.

The Blythe Company represents and warrants that it: (i) is a limited liability company, validly existing and in good standing under the laws of North Carolina; (ii) is authorized to do business in South Carolina; (iii) has all requisite power to enter into this Agreement; and (iv) by proper action has duly authorized the execution and delivery of this Agreement.

Section 3.10. Indemnification.

The Blythe Company releases 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”) 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, the Facility, or the use thereof, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party. The Blythe Company further agrees 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 Blythe Company in the performance of any covenant or agreement on the part of The Blythe Company 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 Blythe Company, 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 Blythe Company, 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 Blythe Company 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 Blythe Company, and The Blythe Company 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 its sole discretion; provided The Blythe Company shall obtain the prior written consent

of the County to settle any such claim unless such claim is for monetary damages for which The Blythe Company has the ability to, and does, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, 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 Blythe Company reasonably determines that a conflict of interest exists between the County and The Blythe Company, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and The Blythe Company 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 Blythe Company 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.

Section 3.11. Administration Expense.

a. The Blythe Company 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. As used in this section, "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 this Agreement and any multi-county park documents; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents.

b. The Blythe 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 special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at Five Hundred and No/100 dollars (\$500.00).

Section 3.12. Participation in Drafting.

The Blythe Company and County acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 3.13. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of South Carolina.

Section 3.14. 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.

Lancaster County, South Carolina, acting pursuant to an ordinance of its County Council, has caused its name to be hereunto subscribed, and The Blythe Company, LLC has caused its name to be subscribed hereto, by their duly authorized officers, all as of the Effective Date.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Larry Honeycutt, Secretary, County Council

ATTEST:

Sherrie M. Simpson, Clerk to Council

THE BLYTHE COMPANY, LLC

E. Rhyne Davis, Manager

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2017-1480

COUNTY OF LANCASTER

)

AN ORDINANCE

TO APPROVE A FIFTH AMENDMENT TO THE AGREEMENT FOR THE DEVELOPMENT OF A JOINT INDUSTRIAL AND BUSINESS PARK DATED AS OF DECEMBER 1, 2008 BETWEEN THE COUNTY AND CHESTER COUNTY SO AS TO REMOVE CERTAIN PROPERTY PREVIOUSLY ADDED TO THE PARK AGREEMENT.

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

Section 1. Findings and determinations.

(A) The Council finds and determines that:

(1) pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, Lancaster County, South Carolina ("Lancaster County") and Chester County, South Carolina ("Chester County") (collectively, the "Counties") entered into that certain Agreement for the Development of a Joint Industrial and Business Park (the "Park") dated as of December 1, 2008 (the "Original Park Agreement"), as amended by that certain First Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of December 7, 2009 (the "First Amendment"), that certain Second Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of November 30, 2010 (the "Second Amendment"), that certain Third Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of December 9, 2013 (the "Third Amendment"), and that certain Fourth Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of September 26, 2016 (the "Fourth Amendment") (the Original Park Agreement, as amended by the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment referred to herein as the "Park Agreement"), which included within the Park certain property of Haile Gold Mine, Inc. (the "Company") and OceanaGold Exploration (Carolina) Inc. ("OceanaGold"), all to be used in connection with the Company's and OceanaGold's anticipated investments in Lancaster County (the "Project");

(2) pursuant to the Second Amendment, the Counties agreed to include in the Original Park Agreement, as amended by the First Amendment, certain properties identified in Schedule I of the Second Amendment as the Stroud (Charles) Tract;

(3) the Company and OceanaGold have requested the Counties, by way of a Fifth Amendment to the Agreement for the Development of a Joint Industrial and Business Park, attached to this ordinance as Exhibit A and incorporated herein as if the exhibit were set out in this ordinance in its entirety (the "Fifth Amendment"), to remove the Stroud (Charles) Tract from the Park Agreement.

(B) It is the purpose of this ordinance, in reliance on the information submitted by the Company and OceanaGold, to provide for the County's approval, execution and delivery of the Fifth Amendment.

Section 2. Approval of Fifth Amendment.

Council authorizes and approves the Fifth Amendment to remove the Stroud (Charles) Tract from the Park Agreement.

Section 3. Form of Documents.

The form of the Fifth Amendment is to be in substantially the form of the document attached to this ordinance and 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 their approval of any and all changes or revisions therein from the form of the document attached to this ordinance.

Section 4. Officials Authorized to Act.

The Council Chair and Council Secretary are authorized, empowered and directed, in the name of and on behalf of Lancaster County, to execute, acknowledge, and deliver the Fifth Amendment. The authority of the Council Chair and Council Secretary includes the authority to execute other documents and to do all things necessary to effectuate the purposes of this ordinance. The Clerk to Council is authorized to attest the execution of the Fifth Amendment and any other documents executed to effectuate the purposes of this ordinance.

Section 5. Severability.

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

Section 6. Conflicting Provisions.

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

Section 7. Effective Date.

This ordinance is effective upon Third Reading.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

AND IT IS SO ORDAINED

Dated this _____ day of _____, 2017.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council,

Larry Honeycutt, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

First Reading:	October 23, 2017	(Tentative)
Second Reading:	November 13, 2017	(Tentative)
Public Hearing:	November 27, 2017	(Tentative)
Third Reading:	November 27, 2017	(Tentative)

EXHIBIT A to Ordinance No. 2017-1480

**FIFTH AMENDMENT TO THE AGREEMENT FOR THE DEVELOPMENT
OF A JOINT INDUSTRIAL AND BUSINESS PARK**

See attached.

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STATE OF SOUTH CAROLINA)	FIFTH AMENDMENT TO THE
)	AGREEMENT FOR THE DEVELOPMENT
)	OF A JOINT INDUSTRIAL
COUNTY OF LANCASTER)	AND BUSINESS PARK
COUNTY OF CHESTER)	

This Fifth Amendment to the Agreement for the Development of a Joint Industrial and Business Park by and between Lancaster County and Chester County is dated as of _____, 2017 (the "Fifth Amendment"), and removes certain property previously owned by OceanaGold Exploration (Carolina) Inc. from the Park Agreement.

More specific information on the properties may be found in the body of this Fifth Amendment and in the attached Schedule.

RECITALS

Pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, Lancaster County, South Carolina ("Lancaster County") and Chester County, South Carolina ("Chester County") (collectively, the "Counties") entered into that certain Agreement for the Development of a Joint Industrial and Business Park (the "Park") dated as of December 1, 2008 (the "Original Park Agreement"), as amended by that certain First Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of December 7, 2009 (the "First Amendment"), that certain Second Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of November 30, 2010 (the "Second Amendment"), that certain Third Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of December 9, 2013 (the "Third Amendment"), and that certain Fourth Amendment to the Agreement for the Development of a Joint Industrial and Business Park dated as of September 26, 2016 (the "Fourth Amendment") (the Original Park Agreement, as amended by the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment referred to herein as the "Park Agreement"), which included within the Park certain property of Haile Gold Mine, Inc. (the "Company") and OceanaGold Exploration (Carolina) Inc. ("OceanaGold"), all to be used in connection with the Company and OceanaGold's anticipated investments in Lancaster County (the "Project").

Pursuant to the Second Amendment, the Counties agreed to include in the Original Park Agreement, as amended by the First Amendment, certain property identified in Schedule I of the Second Amendment as the Stroud (Charles) Tract.

FIFTH AMENDMENT

This **FIFTH AMENDMENT** to the Park Agreement is made and entered into as of the ____ day of _____, 2017, by and between Lancaster County and Chester County.

By authority of Ordinance No. 2017-_____ enacted by the County Council of Lancaster County on _____, 2017, and Ordinance No. _____ enacted by the County Council of Chester County on _____, 2017, for value received, Lancaster County and Chester County agree that Exhibit A – Lancaster County Properties to the Park Agreement is amended to remove the Stroud (Charles) Tract, as identified in Schedule I, attached to this Fifth Amendment and incorporated herein as if the schedule were set out in this amendment in its entirety.

All other terms and provisions of the Park Agreement shall remain in full force and effect.

WITNESS our hands and seals, effective as of the day first above written.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

ATTEST:

Larry Honeycutt, Secretary, County Council

Sherrie Simpson, Clerk to Council

CHESTER COUNTY, SOUTH CAROLINA

K. Shane Stuart, Chair, County Council

ATTEST:

Karen Lee, Clerk to County Council

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FIFTH AMENDMENT TO THE PARK AGREEMENT

SCHEDULE I

The Stroud (Charles) Tract, as previously added to Exhibit A – Lancaster County Properties of the Park Agreement pursuant to Schedule I of the Second Amendment to the Park Agreement, is removed from the Park Agreement. The Stroud (Charles) Tract is identified in the Second Amendment by the following legal description and tax map number:

Stroud (Charles) Tract:

ALL that certain piece, parcel or tract of land, lying being and situate in Flat Creek Township, Lancaster County, South Carolina, containing .75 acres as shown on plat entitled "Property Survey" prepared for Haile Gold Mine Inc., by Holland Surveyors, LLC, dated September 22, 2010, and recorded in the Office of the Register of Deeds for Lancaster County in Plat Book 2010, page 430; and having such metes, bounds, courses and distances as shown on said plat.

Being all of the same property conveyed to Charles R. Stroud and Marcie B. Stroud, for and during their lifetime, and at the death of both unto Daniel Ray Stroud, Karen S. Bowers and Tammy S. Croxton, by deed of Charles R. Stroud and Marcie B. Stroud, dated May 12, 2003 and recorded May 12, 2003 in Book 194, page 272. Daniel Ray Stroud is deceased and his sole heirs now holding his remainder interest are his children Joshua Ray Stroud and Bailey Braxton Stroud.

TMS No.: 0118-00-060.00

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Agenda Item Summary

Ordinance # / Resolution#:

Contact Person / Sponsor:

Department:

Date Requested to be on Agenda:

Discussion Item

Hal Hiott/ Kim Hill

Parks & Recreation/ Finance

October I&R Committee Meeting

October Administration Committee Meeting

Issue for Consideration:

Hospitality Tax funds for Buford Recreation Center.

Points to Consider:

Buford Recreation was identified as the primary site for use of Hospitality Tax funds to make the major sites "tournament ready" for use in travel ball/ tournaments/ etc. There was no amount specified while needs were determined and cost estimates obtained. The following are estimates but Procurement has not yet bid out the items.

The Parks and Recreation Commission recommends the approval of the following items:

Lighting of exterior ball fields - \$360,000

Field irrigation - \$35,000

Fencing of soccer fields - \$30,000

This is not all the work to be done at Buford but is the primary list of items as identified and within budget estimates. The second priority item was paving of the parking lot (currently gravel) but that will need to be considered in the next budget due to estimated costs.

Funding and Liability Factors:

Funding items are identified above. The fencing will reduce liability as it will prevent soccer balls from rolling into the adjoining parking area. There will need to be a resolution to transfer these funds. The majority of the hospitality funds were budgeted to go into reserves. They will need to be transferred to an expenditure account so the money can be spent.

Council Options:

If the Committees recommend proceeding Kim will prepare a budget amendment at a later date.

Staff Recommendation:

Proceed as recommended by the Parks and Recreation staff and Commission.

Committee Recommendation:

To be determined.

Agenda Item Summary

Ordinance # / Resolution#:

Contact Person / Sponsor: Randy Newman

Department: Solicitor

Date Requested to be on Agenda: Oct. 10

Issue for Consideration:

Solicitor received several grants this cycle from VOCA, SCDPS, and JAG

JAG \$139,913.00 covers one Assistant Solicitor and one Investigator to focus on sexual and domestic abuse prosecution. This is year two renewal on this grant. This is an 80% grant with a 20% match.

SCDPS \$96,956 covers one Assistant Solicitor to focus on DUI prosecution. This is the first year of this grant. This is a 100% grant.

VOCA \$141,455 covers 4 Victim Advocates, two in Lancaster, one in Chester, one in Fairfield. This is year three renewal on this grant, which also provided a 3% cost of living increase over last year. This is an 80% grant with a 20% match.

Points to Consider:

Keeping the position when the grant is over.

Funding and Liability Factors:

20% match on two of the grants.

Council Options:

Recommendation:

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF HIGHWAY SAFETY AND JUSTICE PROGRAMS
P. O. BOX 1993
BLYTHEWOOD, SOUTH CAROLINA 29016

GRANT AWARD

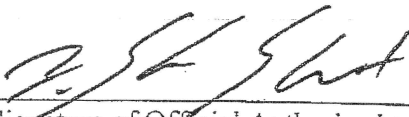
Subgrantee: Chester County Government
Grant Title: DUI Prosecutor
Grant Period: 10/1/2017 - 9/30/2018
Amount of Award: \$96,956
Date of Award: October 1, 2017
Grant No.: M4CS-2018-HS-39-18

In accordance with the provisions of the Highway Safety Act of 1966, 72 Stat. 885, as amended, CFDA No. 20.616, and on the basis of the application for a grant award submitted to the Office of Highway Safety and Justice Programs, the S. C. Department of Public Safety hereby awards to the foregoing Subgrantee, a grant in the amount shown above for the projects specified in the application and within the purposes and categories authorized for the Highway Safety grants.

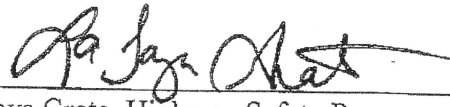
This grant is subject to conditions set forth within the application and must begin implementation within 90 days following the award date or be subject to automatic cancellation of the grant. Evidence of implementation must be detailed in the first progress report.

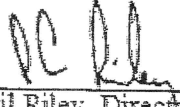
The grant shall become effective as of the date of the award, contingent upon the return of the original of this form to the Office of Highway Safety and Justice Programs, signed by the Subgrantee in the space provided below. This award must be accepted within 30 days, and such progress and other reports 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.

ACCEPTANCE FOR THE SUBGRANTEE


Signature of Official Authorized to Sign
K. Stuart

ACCEPTANCE FOR THE SFA


LaToya Grate, Highway Safety Program Administrator
Office of Highway Safety and Justice Programs


Phil Riley, Director
Office of Highway Safety and Justice Programs

GRANT AWARD DATA: THIS AWARD IS SUBJECT TO SPECIAL CONDITIONS ATTACHED AND
UPDATED TERMS AND CONDITIONS ATTACHED.

Agenda Item Summary

Ordinance # / Resolution#:	Discussion Item
Contact Person / Sponsor:	Barry Faile
Department:	Sheriff
Date Requested to be on Agenda:	October Administration Committee October Public Safety as e-mail information

Issue for Consideration:

Grants for Sheriff's Office.

Points to Consider:

Barry has received the following grants:

Traffic Unit Grant – year 3 – 100% grant funded @ \$163,626 for 2 deputies

Domestic Violence Investigator – year 2 – grant funds are \$67,844 but due to federal budget issues in Washington we have yet to receive the final paperwork.

Domestic Violence Victim's Advocate – year 2 - \$51,733 grant funded with an in-kind match of \$12,934.

New Grant:

Victim's Advocate working from the Detention Center – year 1 - \$44,598 grant funded with an in-kind match of \$11,150.

Funding and Liability Factors:

Covered above.

Council Options:

This is for information only as these are Sheriff's Office grants.

Staff Recommendation:

N/A

Committee Recommendation:

This is for information only but the Committee may certainly comment if so desired.