

# Lancaster County Council Regular Meeting Agenda

Monday, October 23, 2017

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

1. **Call to Order Regular Meeting – Chairman Steve Harper** 6:00 p.m.
2. **Welcome and Recognition – Chairman Steve Harper**
3. **Pledge of Allegiance and Invocation – Council Member Brian Carnes**
4. **Approval of the agenda** *[deletions and additions of non-substantive matter]*
5. **Special Presentations**
  - a. Resolution from the State of South Carolina presented to Norman Anderson – presented by Chairman Steve Harper
6. **Citizen Comments** *[Speakers are allowed approximately 3 minutes. If there are still people on the list who have not spoken at the end of thirty (30) minutes, Council may extend the citizen comments section or delay it until a later time in the agenda]*
7. **Consent Agenda**
  - a. Minutes of the October 9, 2017 regular meeting – *pgs. 6-10*
  - b. **3<sup>rd</sup> Reading of Ordinance 2017-1469 regarding Amending the County Code Concerning the Activities Of Peddlers**

Ordinance Title: An Ordinance To Amend The Lancaster County Code Of Ordinances By The Addition Of Chapter 23, Article Five, So As To Define And Identify The Lancaster County Regulations Concerning The Activities Of Those Persons Identified As Peddlers, Hawkers And Solicitors. – *(Favorable Recommendation – Public Safety Committee) Passed 6-0 at the September 25, 2017 County Council Meeting. Passed 7-0 at the October 9, 2017 County Council Meeting. – Steve Willis – pgs. 11-13*
  - c. **2<sup>nd</sup> Reading of Ordinance 2017-1472 regarding Rezoning Property of Fred Brackett**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Owned By Fred Brackett, Located At 2648 Charlotte Hwy, From LDR, Low Density Residential District To GB, General Business District. – *Planning Commission recommended approval by a vote of 6-0. Passed 7-0 at the October 9, 2017 County Council Meeting. – Penelope Karagounis – pgs. 14-15*

- d. **2<sup>nd</sup> Reading of Ordinance 2017-1473 regarding Rezoning Property Owned By Sarah Ruth Mahaffey, Represented By Jeffery Humphries**  
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Owned By Sarah Ruth Mahaffey, Represented By Jeffery Humphries, Located At 3420 Heyward Hough Road, From RR, Rural Residential District To RN, Rural Neighborhood District. – *Planning Commission recommended approval by a vote of 6-0. Passed 7-0 at the October 9, 2017 County Council Meeting. – Penelope Karagounis – pgs. 16-17*
- e. **2<sup>nd</sup> Reading of Ordinance 2017-1474 regarding Rezoning Property of Stephen W. Moore**  
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Owned By Stephen W. Moore, Located At 828 Westwind Lane, From MDR, Medium Density Residential District To MH, Manufactured Home District. – *Planning Commission recommended approval by a vote of 4-2. Passed 7-0 at the October 9, 2017 County Council Meeting. – Penelope Karagounis – pgs. 18-19*
- f. **2<sup>nd</sup> Reading of Ordinance 2017-1475 regarding Rezoning Property of Zimmer Ventures LLC**  
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Of Zimmer Ventures, LLC (Bernard Zimmer) Located At 429 Marvin Road From NB, Neighborhood Business District To GB, General Business District. – *Planning Commission recommended approval by a vote of 6-0. Passed 7-0 at the October 9, 2017 County Council Meeting. – Penelope Karagounis – pgs. 20-21*
- g. **2<sup>nd</sup> Reading of Ordinance 2017-1476 regarding Rezoning a Portion of Property Owned by Steve and Marlena Norwood**  
Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone A 2.0 Acre Portion Of Property Owned By Steve And Marlena Norwood Located At 1929 Brady Road From RR, Rural Residential District To RUB, Rural Business District. – *Planning Commission recommended approval by a vote of 6-0. Passed 7-0 at the October 9, 2017 County Council Meeting. – Penelope Karagounis – pgs. 22-23*
- h. **2<sup>nd</sup> Reading of Ordinance 2017-1477 regarding Authorization of Special Source Revenue Credit Agreement with Unique USA, Inc.**  
Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Special Source Revenue Credit Agreement By And Between Lancaster County And Unique USA, Inc., Providing For, Among Other Things, Special Source Revenue Credits; To Express The Intention Of Council To Provide Monies To The Economic Development Fund. – *Passed 7-0 at the October 9, 2017 County Council Meeting. - Jamie Gilbert – pgs. 24-45*



## 8. Non-Consent Agenda

### a. **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. – *(Favorable Recommendation – Administration Committee) - Jamie Gilbert – pgs. 46-51*

### b. **Resolution 0978-R2017 regarding using Hospitality Tax funds for the Buford Recreation Center**

Resolution Title: A Resolution To Authorize The Transfer Of Funds Within The County General Fund; To Authorize Certain County Officials To Take Actions Necessary To Effectuate The Purposes Of This Resolution. - *(Favorable Recommendation – I & R Committee)(Favorable Recommendation – Administration Committee) – Hal Hiott/Steve Willis – pgs. 52-54*

### c. **Public Hearing and 3<sup>rd</sup> Reading of Ordinance 2017-1470 regarding an Amendment to the FY 2017-2018 Budget – Amendment needed**

Ordinance Title: An Ordinance To Amend Ordinance No. 2017-1447, Relating To The Appropriation Of Funds And The Approval Of A Detailed Budget For Lancaster County For The Fiscal Year Beginning July 1, 2017 And Ending June 30, 2018 (FY 2017-2018), To Further Provide For Revenues And Expenditures During The Fiscal Year. – *(Favorable Recommendation – Administration Committee) Passed 6-0 at the September 25, 2017 County Council Meeting. Passed 7-0 at the October 9, 2017 County Council Meeting. – Steve Willis – pgs. 55-60*

### d. **Public Hearing and 3<sup>rd</sup> Reading of Ordinance 2017-1471 regarding Authorizing the Execution of a Special Source Revenue Credit Agreement Between Lancaster County, Danny Simpson and Simpson Electric Company**

Ordinance Title: An Ordinance To Authorize And Approve The Execution And Delivery Of A Special Source Revenue Credit Agreement By And Among Lancaster County, Danny Simpson And Simpson Electric Company Providing For Special Source Revenue Credits; To Express The Intention Of Council To Provide Monies To The Economic Development Fund. – *Passed 6-0 at the September 25, 2017 County Council Meeting. Passed 7-0 at the October 9, 2017 County Council Meeting. - Jamie Gilbert – pgs. 61-82*

e. **1<sup>st</sup> Reading of 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. – *(Favorable Recommendation – I & R Committee)(Favorable Recommendation – Administration Committee) - John Weaver – pgs. 83-121*

f. **Public Hearing and 1<sup>st</sup> Reading of 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. – *(Favorable Recommendation – Administration Committee) - Jamie Gilbert – pgs. 122-162*

g. **1<sup>st</sup> Reading of 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. – *(Favorable Recommendation – Administration Committee) - John Weaver – pgs. 163-170*

9. **Discussion and Action Items**

a. Committee Reports

1. I&R Committee – Committee Chair Larry Honeycutt
2. Public Safety Committee – Committee Chair Brian Carnes
3. Administration Committee – Committee Chair Charlene McGriff

b. Nomination for appointment to the Historical Commission for District 7 – *pg. 171*

- Miles Gardner to fill an unexpired term until 6/30/2019

c. Nomination for appointment to the Historical Commission as Advisor – *pg. 172*

- Jill Knight to fill an unexpired term until 6/30/2019

d. Nomination for appointment to the Fire Code Appeals Board – *pg. 173*

- Stacy L. Roberts for 4 year term expiring 6/30/2021

- e. Information only on grants from VOCA, SCDPS and JAG for the Solicitor's office – *Steve Willis/Randy Newman – pgs. 174-175*
- f. Information only for grants for the Sheriff's office – *Steve Willis/Sheriff Barry Faile – pg. 176*
- g. Information only for SC EMD Grant for Emergency Management/Fire Rescue – *Steve Willis/Darren Player – pgs. 177-179*

**10. Status of items tabled, recommitted, deferred or held**

**11. Miscellaneous Reports and Correspondence**

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

**13. Executive Session**

**14. Calendar of Events – pg. 180**

**15. Adjournment**

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

*Lancaster County Council agendas are posted at the Lancaster County Administration Building and are available on the Website: [www.mylancastersc.org](http://www.mylancastersc.org)*



Members of Lancaster County Council  
*Steve Harper, District 5, Chairman*  
*Charlene McGriff, District 2, Vice Chairwoman*  
*Larry Honeycutt, District 4, Secretary*  
*Brian Carnes, District 7*  
*Jack Estridge, District 6*  
*Terry Graham, District 1*  
*Billy Mosteller, District 3*



## **Minutes of the Lancaster County Council Regular Meeting**

101 N. Main Street, Lancaster, SC 29720

Monday, October 9, 2017

Council Members present were Brian Carnes, Jack Estridge, Terry Graham, Steve Harper, Larry Honeycutt, Charlene McGriff and Billy Mosteller. Also present were John Weaver, Steve Willis, Chelsea Gardner, Sherrie Simpson, Veronica Thompson, Penelope Karagounis, the press and spectators. A quorum of Lancaster County Council 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 posted in the lobby of the County Administration Building and also on the county website the required length of time.

### **Call to Order regular meeting**

Chairman Steve Harper called the regular meeting of Council to order at 6:00 p.m.

### **Welcome and Recognition/Pledge of Allegiance and Invocation**

Chairman Steve Harper welcomed everyone to the meeting. Council Member Billy Mosteller led the Pledge of Allegiance to the American Flag and delivered the invocation.

### **Approval of the agenda**

Brian Carnes moved to approve the agenda. Seconded by Charlene McGriff. Council approved the agenda by unanimous vote of 7-0.

### **Citizens Comments**

Mike Neese, 134 Fort Mill Highway, Indian Land, SC, spoke regarding the Indian Land Fall Festival.

Sara Phillips, 2045 Robert H. Kirk Road, Lancaster, SC, spoke regarding the animal shelter and Global Cat Day.

## Consent Agenda

Billy Mosteller moved to approve Consent Agenda Item a and Item b. Seconded by Larry Honeycutt. Council approved Consent Agenda Items a and b by unanimous vote of 7-0.

- a. Minutes of the September 25, 2017 regular meeting
- b. **2<sup>nd</sup> Reading of Ordinance 2017-1471 regarding Authorizing the Execution of a Special Source Revenue Credit Agreement Between Lancaster County, Danny Simpson and Simpson Electric Company**  
Ordinance Title: An Ordinance To Authorize And Approve The Execution And Delivery Of A Special Source Revenue Credit Agreement By And Among Lancaster County, Danny Simpson And Simpson Electric Company Providing For Special Source Revenue Credits; To Express The Intention Of Council To Provide Monies To The Economic Development Fund.

## Non-Consent Agenda

### **1<sup>st</sup> Reading of Ordinance 2017-1477 regarding Authorization of Special Source Revenue Credit Agreement with Unique USA, Inc.**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Special Source Revenue Credit Agreement By And Between Lancaster County And Unique USA, Inc., Providing For, Among Other Things, Special Source Revenue Credits; To Express The Intention Of Council To Provide Monies To The Economic Development Fund.

Charlene McGriff moved to approve the 1<sup>st</sup> Reading of Ordinance 2017-1477. Seconded by Terry Graham. The 1<sup>st</sup> Reading of Ordinance 2017-1477 passed by unanimous vote of 7-0.

### **2<sup>nd</sup> Reading of Ordinance 2017-1469 regarding Amending the County Code Concerning the Activities Of Peddlers**

Ordinance Title: An Ordinance To Amend The Lancaster County Code Of Ordinances By The Addition Of Chapter 23, Article Five, So As To Define And Identify The Lancaster County Regulations Concerning The Activities Of Those Persons Identified As Peddlers, Hawkers And Solicitors.

Brian Carnes moved to approve the 2<sup>nd</sup> Reading of Ordinance 2017-1469. Seconded by Terry Graham.

Charlene McGriff moved to amend Ordinance 2017-1469 to change Section 23-71 (2) to state: "Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence, dwelling or business indicating a prohibition against peddling, soliciting and/or canvassing." AND to remove Section 23-71 (4) in its entirety (as the changes are indicated on page 56 of the agenda packet). Seconded by Billy Mosteller. Council approved to amend Ordinance 2017-1469 by unanimous vote of 7-0.



Larry Honeycutt stated that he does not want this Ordinance to interfere with Fire Departments or Girl Scouts being able to go door to door and fundraise. He stated that these groups are not peddlers. Steve Willis indicated that Section 4 was removed from the Ordinance so that this issue would be addressed and he further stated that it only becomes an offense when someone asks a person to leave and they do not or will not leave.

Terry Graham asked if this Ordinance supersedes state law. John Weaver explained that it does not. Steve Willis stated that peddlers are still required to have a permit by State law. He stated that this Ordinance goes beyond that and gets the Sheriff involved if someone is asked to leave and they will not leave.

The 2<sup>nd</sup> Reading of Ordinance 2017-1469 as amended passed by unanimous vote of 7-0.

**2<sup>nd</sup> Reading of Ordinance 2017-1470 regarding an Amendment to the FY 2017-2018 Budget**

Ordinance Title: An Ordinance To Amend Ordinance No. 2017-1447, Relating To The Appropriation Of Funds And The Approval Of A Detailed Budget For Lancaster County For The Fiscal Year Beginning July 1, 2017 And Ending June 30, 2018 (FY 2017-2018), To Further Provide For Revenues And Expenditures During The Fiscal Year.

Charlene McGriff moved to approve the 2<sup>nd</sup> Reading of Ordinance 2017-1470. Seconded by Terry Graham.

Charlene McGriff asked Kim Hill to review the concerns of Council regarding the budget ordinance. Steve Willis indicated that Steve Yeargin has revised the floor plan for the Indian Land Satellite office and that the building floor plan will effect and change the percentage that Stormwater pays towards the Indian Land satellite office. He stated that this updated information will be discussed at the Infrastructure and Regulation (I & R) Committee meeting. Steve Yeargin reviewed the floor plan for the Indian Land satellite office, attached as Schedule A.

Larry Honeycutt and Charlene McGriff asked how the potential incorporation of Indian Land would effect a satellite office in that area. John Weaver explained that the County has an “out clause” which will allow the lease to be cancelled by the County if Indian Land incorporates. However, he stated that even if they do incorporate, some County departments may still have a need for that office. Steve Harper asked how Stormwater changes due to incorporation. Steve Willis noted that the County will have to contact the South Carolina Department of Health and Environmental Control and research how incorporation will effect Stormwater. Billy Mosteller questioned the percentage of money Stormwater will be charged for the Indian Land office. Kim Hill indicated that Ordinance 2017-1470 may need to be amended.

John Weaver noted that the County has signed the letter of intent for the lease on the Indian Land satellite office. Billy Mosteller stated that there is too much money coming out of the general fund for the renovations for the satellite office. Steve Harper asked Brian Carnes and Terry Graham to write editorials or letters explaining to the residents of Indian Land what services that the satellite office will provide and when. Terry Graham stated that he would write a letter and go to meetings in the Indian Land area.



The 2<sup>nd</sup> Reading of Ordinance 2017-1470 passed by unanimous vote of 7-0.

**1<sup>st</sup> Reading of Ordinance 2017-1472 regarding Rezoning Property of Fred Brackett**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Owned By Fred Brackett, Located At 2648 Charlotte Hwy, From LDR, Low Density Residential District To GB, General Business District.

Larry Honeycutt moved to approve the 1<sup>st</sup> Reading of Ordinance 2017-1472. Seconded by Terry Graham. The 1<sup>st</sup> Reading of Ordinance 2017-1472 passed by unanimous vote of 7-0.

**1<sup>st</sup> Reading of Ordinance 2017-1473 regarding Rezoning Property Owned By Sarah Ruth Mahaffey, Represented By Jeffery Humphries**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Owned By Sarah Ruth Mahaffey, Represented By Jeffery Humphries, Located At 3420 Heyward Hough Road, From RR, Rural Residential District To RN, Rural Neighborhood District.

Billy Mosteller moved to approve the 1<sup>st</sup> Reading of Ordinance 2017-1473. Seconded by Larry Honeycutt. The 1<sup>st</sup> Reading of Ordinance 2017-1473 passed by unanimous vote of 7-0.

**1<sup>st</sup> Reading of Ordinance 2017-1474 regarding Rezoning Property of Stephen W. Moore**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Owned By Stephen W. Moore, Located At 828 Westwind Lane, From MDR, Medium Density Residential District To MH, Manufactured Home District.

Billy Mosteller moved to approve the 1<sup>st</sup> Reading of Ordinance 2017-1474. Seconded by Larry Honeycutt. The 1<sup>st</sup> Reading of Ordinance 2017-1474 passed by unanimous vote of 7-0.

**1<sup>st</sup> Reading of Ordinance 2017-1475 regarding Rezoning Property of Zimmer Ventures LLC**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Of Zimmer Ventures, LLC (Bernard Zimmer) Located At 429 Marvin Road From NB, Neighborhood Business District To GB, General Business District.

Charlene McGriff moved to approve the 1<sup>st</sup> Reading of Ordinance 2017-1475. Seconded by Brian Carnes. The 1<sup>st</sup> Reading of Ordinance 2017-1475 passed by unanimous vote of 7-0.

**1<sup>st</sup> Reading of Ordinance 2017-1476 regarding Rezoning a Portion of Property Owned by Steve and Marlena Norwood**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone A 2.0 Acre Portion Of Property Owned By Steve And Marlena Norwood Located At 1929 Brady Road From RR, Rural Residential District To RUB, Rural Business District.

Larry Honeycutt moved to approve the 1<sup>st</sup> Reading of Ordinance 2017-1476. Seconded by Billy Mosteller. The 1<sup>st</sup> Reading of Ordinance 2017-1476 passed by unanimous vote of 7-0.

**DRAFT**

### **Discussion and Action Items**

#### **Nomination for appointment to the Joint Recreation Commission – Kershaw representative approved by Kershaw Town Council.**

Brian Carnes moved to approve the appointment of Marty Tiller as the Kershaw representative to the Joint Recreation Commission. Seconded by Charlene McGriff. The appointment passed by unanimous vote of 7-0.

#### **Nominations for appointment to the Health and Wellness Commission.**

Larry Honeycutt moved to approve the appointments of Jessica Beard as the hospital representative and Chris Bundrick as the USC-L representative to the Health and Wellness Commission. Seconded by Charlene McGriff. The appointments passed by unanimous vote of 7-0.

#### **Nomination for appointment to the Board of Zoning Appeals for District 2.**

Charlene McGriff moved to approve the appointment of Kemesha Lowery to fill an unexpired term on the Board of Zoning Appeals that will end on 6/30/2019. Seconded by Brian Carnes. The appointment passed by unanimous vote of 7-0.

#### **Nomination for appointment to the Board of Assessment Appeals for District 2.**

Charlene McGriff moved to approve the appointment of Marylene Stover to the Board of Assessment Appeals, with her term ending 6/30/2019. Seconded by Larry Honeycutt. The appointment passed by unanimous vote of 7-0.

### **Adjournment**

Larry Honeycutt moved to adjourn the meeting. Seconded by Billy Mosteller. Passed by unanimous vote of 7-0. The Council meeting was adjourned at 6:49 p.m.

Respectfully Submitted:

Approved by Council, October 23, 2017

Sherrie M. Simpson  
Clerk to Council

\_\_\_\_\_  
Larry Honeycutt, Secretary

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STATE OF SOUTH CAROLINA        )  
  )  
COUNTY OF LANCASTER        )

ORDINANCE NO. 2017-1469

**AN ORDINANCE**

**TO AMEND THE LANCASTER COUNTY CODE OF ORDINANCES BY THE ADDITION OF CHAPTER 23, ARTICLE FIVE, SO AS TO DEFINE AND IDENTIFY THE LANCASTER COUNTY REGULATIONS CONCERNING THE ACTIVITIES OF THOSE PERSONS IDENTIFIED AS PEDDLERS, HAWKERS AND SOLICITORS.**

**WHEREAS**, Lancaster County Council is empowered to enact regulations that provide for the general health, safety and welfare of its citizens and residents, and

**WHEREAS**, the Council has received reports from both individuals within the County and from law enforcement officials regarding numerous unsolicited intrusions upon the private, real property of homeowners and tenants whereby offers to sell a variety of goods and services have been made that, in turn, has caused trepidation for those property owners and occupants in many instances.

**NOW, THEREFORE**, by the power and authority granted to the Lancaster County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

**Section 1.** The Lancaster County Code of Ordinances is amended so as to add thereto the following sections:

**Section 23-70 – Definitions**

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

“Peddler” means any person who goes from house to house or from place to place soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, or services; except vendors of newspapers, magazines, vegetables, tobacco, provisions of any



kind or agricultural products or to sales by sample by persons traveling or established commercial houses.

“County” means the County of Lancaster.

“Person” means any individual, firm, partnership, LLP, LLC, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate holding company or other group or combination acting as unity, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.

### **Section 23-71 – General prohibitions**

No peddler shall:

- (1) Enter upon the private roads of a subdivision or upon the private property of a person where the property has clearly posted a visible sign indicating a prohibition against peddling, soliciting and/ or canvassing.
- (2) Remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence, dwelling or business indicating a prohibition against peddling, soliciting and/or canvassing.
- (3) Refuse to leave a subdivision or private property after having been notified by the owner or occupant thereof, or his agent, to leave the premises and not return.

### **Section 23-72 – Violations**

Violation of any provision of this chapter may be subject to a fine not exceeding \$500.00, imprisonment not exceeding 30 days, or both. Each day or portion thereof during which a violation of any ordinance of this provision is continued or committed is a state offense.

### **Section 2. 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 3. Conflicting Provisions.**

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

**Section 4.     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 Simpson, Clerk to Council

First Reading:	9-25-2017	Passed 6-0
Second Reading:	10-9-2017	Passed 7-0
Third Reading:	10-23-2017	

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2017-1472

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY SO AS TO REZONE PROPERTY OWNED BY FRED BRACKETT, LOCATED AT 2648 CHARLOTTE HWY, FROM LDR, LOW DENSITY RESIDENTIAL DISTRICT TO GB, GENERAL BUSINESS DISTRICT.**

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

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Fred Brackett applied to rezone property located at 2648 Charlotte Hwy from LDR, Low Density Residential District, to GB, General Business District.

(b) On September 19, 2017, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (6-0), recommended approval of the rezoning.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from LDR, Low Density Residential District, to GB, General Business District for the following property as identified by tax map number or other appropriate identifier:

Tax Map No. 0049-00-050.01

**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.



**Section 4.      Conflicting Provisions.**

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

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

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 9, 2017	Passed 7-0
Second Reading:	October 23, 2017	
Third Reading:	November 13, 2017	(Tentative)

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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2017-1473

COUNTY OF LANCASTER

)

**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY SO AS TO REZONE PROPERTY OWNED BY SARAH RUTH MAHAFFEY, REPRESENTED BY JEFFERY HUMPHRIES, LOCATED AT 3420 HEYWARD HOUGH ROAD, FROM RR, RURAL RESIDENTIAL DISTRICT TO RN, RURAL NEIGHBORHOOD DISTRICT.**

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

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Jeffery Humphries applied to rezone property located at 3420 Heyward Hough Road from RR, Rural Residential District, to RN, Rural Neighborhood District.

(b) On September 19, 2017, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (6-0), recommended approval of the rezoning.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from RR, Rural Residential District, to RN, Rural Neighborhood District for the following property as identified by tax map number or other appropriate identifier:

Portion of Tax Map No. 0070-00-014.00

**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.

**Section 4.      Conflicting Provisions.**

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

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

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 9, 2017	Passed 7-0
Second Reading:	October 23, 2017	
Third Reading:	November 13, 2017	(Tentative)



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STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2017-1474

COUNTY OF LANCASTER

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**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY SO AS TO REZONE PROPERTY OWNED BY STEPHEN W. MOORE, LOCATED AT 828 WESTWIND LANE, FROM MDR, MEDIUM DENSITY RESIDENTIAL DISTRICT TO MH, MANUFACTURED HOME DISTRICT.**

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

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Stephen W. Moore applied to rezone property located at 828 Westwind Lane from MDR, Medium Density Residential District, to MH, Manufactured Home District.

(b) On September 19, 2017, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (4-2), recommended approval of the rezoning.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from MDR, Medium Density Residential District, to MH, Manufactured Home District for the following property as identified by tax map number or other appropriate identifier:

Portion of Tax Map No. 0006K-0A-021.00

**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.

**Section 4.      Conflicting Provisions.**

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

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

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 9, 2017	Passed 7-0
Second Reading:	October 23, 2017	
Third Reading:	November 13, 2017	(Tentative)

---

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2017-1475

COUNTY OF LANCASTER

)

**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY SO AS TO REZONE PROPERTY OF ZIMMER VENTURES, LLC (BERNARD ZIMMER) LOCATED AT 429 MARVIN ROAD FROM NB, NEIGHBORHOOD BUSINESS DISTRICT TO GB, GENERAL BUSINESS DISTRICT.**

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

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Zimmer Ventures, LLC (Bernard Zimmer) applied to rezone property located at 429 Marvin Road from NB, Neighborhood Business District, to GB, General Business District.

(b) On September 19, 2017, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (6-0), recommended approval of the rezoning.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from NB, Neighborhood Business District to GB, General Business District for the following property as identified by tax map number or other appropriate identifier:

Tax Map No. 0008-00-034.00

**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.



**Section 4.      Conflicting Provisions.**

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

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

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 9, 2017	Passed 7-0
Second Reading:	October 23, 2017	
Third Reading:	November 13, 2017	(Tentative)

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STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2017-1476

COUNTY OF LANCASTER

)

**AN ORDINANCE**

**TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY SO AS TO REZONE A 2.0 ACRE PORTION OF PROPERTY OWNED BY STEVE AND MARLENA NORWOOD LOCATED AT 1929 BRADY ROAD FROM RR, RURAL RESIDENTIAL DISTRICT TO RUB, RURAL BUSINESS DISTRICT.**

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

**Section 1. Findings and Determinations.**

The Council finds and determines that:

(a) Steve and Marlena Norwood applied to rezone a 2.0 acre portion of property located at 1929 Brady Road from RR, Rural Residential District, to RUB, Rural Business District.

(b) On September 19, 2017, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (6-0), recommended approval of the rezoning.

**Section 2. Rezoning.**

The Official Zoning Map is amended by changing the zoning district classification from RR, Rural Residential District to RUB, Rural Business District for the following property as identified by tax map number or other appropriate identifier:

Portion of Tax Map No. 0055-00-011.00

**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.

**Section 4.      Conflicting Provisions.**

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

**Section 5.      Effective Date.**

This ordinance is effective upon Third Reading.

**AND IT IS SO ORDAINED**

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 9, 2017	Passed 7-0
Second Reading:	October 23, 2017	
Third Reading:	November 13, 2017	(Tentative)



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STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2017-1477

COUNTY OF LANCASTER

)

)

AN ORDINANCE

**TO AUTHORIZE THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND BETWEEN LANCASTER COUNTY AND UNIQUE USA, INC., PROVIDING FOR, AMONG OTHER THINGS, 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 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 Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the "SSRC Law"), to enter into agreements to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

(b) Unique USA, Inc., a South Carolina corporation, on its own or together with one or more of its subsidiaries, affiliates, successors, assigns, sponsors, lessors, and others (collectively, the "Company") has recently located a facility in the County and the Company intends to invest additional capital and create additional jobs at the facility (the "Project"), provided that approvals of various incentives contemplated for the Project are formalized by the State and/or County;

(c) the Project is anticipated to result in an investment of approximately \$4,000,000 in personal property and improvements to the existing real property and approximately 300 jobs of which at least 80 will be full-time jobs that meet the County's criteria for incentives;

(d) pursuant to Resolution No. 0963-R2017, adopted June 26, 2017, the Council approved an Inducement Resolution providing for, among other things, the agreement of the County to enter into an agreement to provide special source revenue credits;

(e) the Company has caused to be prepared and presented to the Council the form of the Special Source Revenue Credit Agreement between the County and the Company (the "Credit Agreement"), which provides for special source revenue credits; and

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

## **Section 2.      Approval of Credit Agreement.**

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 Company to expand or locate an industrial facility in the State, the Credit Agreement is hereby authorized, ratified, and approved.

## **Section 3.      Statutory Findings.**

Council makes the following additional findings:

(a) The County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the SSRC Law.

(b) The Project and the payments in lieu of taxes referenced 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 Credit Agreement.**

The form, terms, and provisions of the Credit Agreement, attached hereto as Exhibit A, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Credit Agreement was set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the Credit Agreement in the name of and on behalf of the County, and thereupon to cause the Credit Agreement to be delivered to the Company. The Credit Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Credit Agreement 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 Credit Agreement. Specifically, it is Council's intent to appropriate from the General Fund of the County an amount based on the following formula: Seven percent (7%) times the amount of money received pursuant to the Credit Agreement 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 Credit Agreement and the performance of all obligations of the County under and pursuant to the Credit Agreement.

**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.

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 Simpson, Clerk to Council

First Reading:	October 9, 2017	Passed 7-0
Second Reading:	October 23, 2017	
Public Hearing:	November 13, 2017	(Tentative)
Third Reading:	November 13, 2017	(Tentative)

**Exhibit A to Ordinance No. 2017-1477**

**Special Source Revenue Credit Agreement  
Lancaster County, South Carolina and Unique USA, Inc.**

See attached.

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**SPECIAL SOURCE REVENUE CREDIT AGREEMENT**

BETWEEN

**LANCASTER COUNTY, SOUTH CAROLINA**

AND

**UNIQUE USA, INC.**

DATED  
AS OF  
NOVEMBER 13, 2017

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## **SPECIAL SOURCE REVENUE CREDIT AGREEMENT**

This SPECIAL SOURCE REVENUE CREDIT AGREEMENT (this “Agreement”) is made and entered into as of November 13, 2017 (“Effective Date”), by and between LANCASTER COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the “County Council”) as governing body of the County; and UNIQUE USA, INC., a South Carolina corporation (the “Company”).

### **RECITALS**

WHEREAS, the County is authorized by 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 (the “MCP Laws”) and by Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the “SSRC Law”) (collectively, the MCP Laws and SSRC Law are referred to as the “Acts”) to (i) create multi-county industrial parks in partnership with contiguous counties; (ii) include the property of eligible companies within such parks as an inducement to locate within the County, which inclusion under the terms of the MCP Laws makes such property exempt from *ad valorem* property taxes, therefore changing the character of the annual receipts from such properties from *ad valorem* property taxes to fees-in-lieu of *ad valorem* property taxes; and (iii) grant an annual tax credit against such fee-in-lieu of tax receipts in order to assist a company in paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the property of any company located within such multi-county industrial parks or for improved or unimproved real estate used in the operation of a commercial enterprise located within such multi-county parks in order to enhance the economic development of the County;

WHEREAS, as authorized by the MCP Laws, the County and Chesterfield County have entered into an Amended and Restated Master Multi-County Park Agreement, Amended and Restated as of November 9, 2015 (the “Master Park Agreement”);

WHEREAS, the Master Park Agreement includes the Company’s property located at 793 Fort Mill Highway (Tax Map No. 0007-00-008.00) (the “Land”);

WHEREAS, pursuant to Resolution No. 0963-R2017, adopted on June 26, 2017 (the “Inducement Resolution”), the County committed to (i) provide for special source revenue credits against the fee-in-lieu of *ad valorem* tax payments to be made by the Company, and (ii) locate the Company’s Land in an MCP Park;

WHEREAS, the Company has committed to employ not less than eighty (80) Qualified Full-Time Jobs (as defined below) in connection with the Project (as defined below).

## **AGREEMENT**

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

### **ARTICLE I RULES OF CONSTRUCTION; DEFINITIONS**

**SECTION 1.1 *Rules of Construction; Use of Defined Terms.*** Unless the context clearly indicates otherwise, in this Agreement words and terms defined in Section 1.2 hereof are used with the meanings ascribed thereto.

#### **SECTION 1.2 *Definitions.***

**“Acts”** has the meaning set forth in the Recitals.

**“Administrative Expenses”** has the meaning set forth in Section 9.12 of this Agreement.

**“Agreement”** means this Special Source Revenue Credit Agreement dated as of November 13, 2017, between the County and the Company.

**“Company”** means Unique USA, Inc., a South Carolina corporation, and its successors and assigns.

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

**“County”** means Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.

**“Documents”** means the Ordinance and this Agreement.

**“Equipment”** means all machinery, apparatus, equipment, fixtures, office facilities, furnishings and other personal property located on or at the Real Property to the extent such property becomes a part of the Project under this Agreement.

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

**“Improvements”** means improvements to the Real Property together with any and all additions, accessions, replacements and substitutions thereto or therefor, and all fixtures now or hereafter attached thereto.

**“Inducement Resolution”** has the meaning set forth in the Recitals.

**“Infrastructure Improvements”** means, in accordance with the Acts, the designing, acquiring, constructing, improving or expanding the infrastructure serving the County and for improved or unimproved real estate, buildings and structural components of buildings, including

upfits, and personal property, including machinery and equipment, used in the operation of the Project, and the costs thereof.

**“Jobs Commitment”** means the commitment of the Company to create Qualified Full-Time Jobs with respect to the Project as set forth in Section 4.3(a) of this Agreement.

**“Land”** has the meaning set forth in the Recitals.

**“Master Park Agreement”** has the meaning set forth in the Recitals.

**“MCP Laws”** has the meaning set forth in the Recitals.

**“Ordinance”** means Ordinance No. 2017-1477, enacted by the County Council on November 13, 2017, authorizing and approving this Agreement.

**“Park”** means the multi-county park jointly developed by the County and Chesterfield County, South Carolina pursuant to the Master Park Agreement, or a successor multi-county park established pursuant to the MCP Laws.

**“Payments-in-Lieu-of-Taxes”** means the payments to be made by the Company pursuant to Section 4.1 of this Agreement.

**“Project”** means the Equipment, Improvements, and Real Property owned by the Company and located on or at the Land.

**“Qualified Full-Time Job”** means a full-time job (*i.e.*, at least thirty (30) hours per week) at the facility, with health care benefits. As used in this definition and as applicable to the Project, “Qualified Full-Time Job” includes only those jobs employed for the Project.

**“Real Property”** means the Land together with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto.

**“SCDOR”** means the South Carolina Department of Revenue and any successor thereto.

**“Special Source Revenue Credit”** or **“SSRC”** has the meaning set forth in Section 4.2 of this Agreement.

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

**“Wage Requirement”** means Seventeen Dollars and Forty-Seven Cents (\$17.47) per hour.

**SECTION 1.3 Amended Agreements and Documents.** Unless the context clearly indicates otherwise, any reference to any agreement or document in this Article or otherwise in this Agreement shall be deemed to include any and all amendments, supplements, addenda and modifications to such agreement or document.



## ARTICLE II LIMITATION OF LIABILITY

**SECTION 2.1 *Limitation of Liability.*** 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.

## ARTICLE III REPRESENTATIONS AND COVENANTS

**SECTION 3.1 *Representations of the County.*** The County represents that (i) it is a body politic and corporate and a political subdivision of the State, (ii) it is authorized by 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 3.2 *Covenants by the County.*** The County covenants with the Company to maintain the Land in the Park for so long as the Company receives Special Source Revenue Credits pursuant to this Agreement.

**SECTION 3.3 *Representations of the Company.*** The Company represents that (i) it is a limited liability company organized, validly existing, and in good standing under the laws of the State, (ii) it has the power to enter into this Agreement, (iii) it has by proper action approved this Agreement, and (iv) it has authorized its officials to execute and deliver this Agreement.

## ARTICLE IV PAYMENTS-IN-LIEU-OF-TAXES; SPECIAL SOURCE REVENUE CREDIT; TERM

### **SECTION 4.1 *Payments-in-Lieu-of-Taxes.***

(a) The parties acknowledge that under the MCP Laws, the Project is exempt from *ad valorem* property taxes. However, the Company shall be required to make annual Payments-in-Lieu-of-Taxes with respect to the Project in an amount equal to what such *ad valorem* property taxes would be if the Project were not located in the Park, less the Special Source Revenue Credit that is provided in Section 4.2. The Payments-in-Lieu-of-Taxes to be made by the Company under this Agreement shall be calculated in the same manner as *ad valorem* taxes. The collection and enforcement of the Payments-in-Lieu of Taxes shall be as provided in Section 12-2-90, Code of Laws of South Carolina 1976, as amended.

(b) Further, pursuant to the Acts as existing on the date of this Agreement, if the Company removes or disposes of Equipment from the Project during the term of this Agreement and has claimed a Special Source Revenue Credit against its Payments-in-Lieu-of-Taxes based upon such Equipment, then the Company is required to continue to make Payments-in-Lieu-of-Taxes on the

removed Equipment for the two years immediately following the year in which the Company removes the Equipment from the Project. The amount of the Payments-in-Lieu-of-Taxes due on the removed Equipment under the Acts is equal to the Payment-in-Lieu-of-Taxes due on the Equipment for the year in which the Company removes or disposes of the Equipment. If the Company replaces the Equipment with qualifying replacement property, as defined in the Acts, then the removed Equipment is deemed not to have been removed from the Project. Notwithstanding anything in this subsection to the contrary, the Company shall be required to make the Payments-in-Lieu-of-Taxes required in this subsection only if and to the extent that the Acts so require at the time that the Equipment in question is removed or disposed of.

#### **SECTION 4.2 *Special Source Revenue Credit.***

(a) The Company, for the first five (5) years of the Project, shall receive a Special Source Revenue Credit equal to fifty percent (50%) of the Payments-in-Lieu-of-Taxes on all investment in the Project in personal property, including, but not limited to, machinery, equipment and building improvements, *provided, however*, this Special Source Revenue Credit does not apply to personal property that has been subject to *ad valorem* property tax in the County prior to the date of the Inducement Resolution.

(b) The Company, for the first ten (10) years of the Project, shall receive a Special Source Revenue Credit equal to twenty-five percent (25%) of the Payments-in-Lieu-of-Taxes on all investment in the Project in real property, *provided, however*, this Special Source Revenue Credit applies to real property that has been subject to *ad valorem* property tax in the County prior to the date of the Inducement Resolution.

(c) Notwithstanding anything in this Agreement to the contrary, the Company is entitled to an SSRC only to the extent that, as of the date that an SSRC is to be applied, the total cost of the Infrastructure Improvements is at least equal to the aggregate amount of any SSRC previously provided and the amount of the SSRC to be provided for the year in question. Upon request of the County, the Company shall provide documentation to the County reflecting the cost of the Infrastructure Improvements.

#### **SECTION 4.3 *Performance Requirements.***

(a) For the Project, the Company agrees and commits to the employment of the number of Qualified Full-Time Jobs, paying an average hourly wage rate not less than the Wage Requirement, by year as follows: (i) to have employed in Qualified Full-Time Jobs an average of not less than thirty (30) for each month after the month in which the Company begins operation of the Project in the calendar year ending December 31, 2017, (ii) to have employed in Qualified Full-Time Jobs an average of not less than fifty (50) during the twelve month period ending December 31, 2018, (iii) to have employed in Qualified Full-Time Jobs an average of not less than seventy (70) during the twelve month period ending December 31, 2019, and (iv) to have employed in Qualified Full-Time Jobs an average of not less than eighty (80) during the twelve month period ending December 31, 2020, and each twelve month period thereafter in which the Company is receiving a special source revenue credit pursuant to Section 4.2 of this Agreement. The number



of Qualified Full-Time Jobs shall be based on the average number of Qualified Full-Time Jobs for each month during the year.

(b) Company agrees, as soon as reasonably practicable following the end of each tax year of the Company, to submit to the County Economic Development Director a certification on Company letterhead listing the aggregate number of Qualified Full-Time Jobs maintained by the Company at the end of such tax year.

(c) For purposes of determining compliance with the Jobs Commitment, Company agrees to provide to the County Economic Development Director, in January of each year, a copy of all of Company's filings with the State (if required to file by the State) for the preceding calendar year of: (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). Company agrees to redact any personally identifying information and proprietary and confidential information prior to submitting any form to the County Economic Development Director. In lieu of providing any of the forms specifically identified in this subsection, Company and the County Economic Development Director may agree on an alternative method for the Company to demonstrate compliance with the Jobs Commitment.

(d) Company agrees that the Special Source Revenue Credits for a year shall be reduced to the extent that the Company fails to meet the Jobs Commitment 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 at the end of 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 the twelve month period ending December 31, 2020, the Jobs Commitment number is 70 jobs satisfying the Jobs Commitments, the actual number of jobs satisfying the Jobs Commitment is 60, and the Special Source Revenue Credit to which the Company would otherwise be entitled for the next twelve month period is Fifty Thousand Dollars (\$50,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (d) would be calculated as follows:

**Jobs Commitment for period ending December 31, 2020: 70 Qualified Full-Time Jobs**

**Jobs Maintained for period ending December 31, 2020: 60 Qualified Full-Time Jobs**

**Special Source Revenue Credit reduction for period ending December 31, 2021:**

$$[70 - 60] / 70 = 10 / 70 = 14.29\%$$

$$14.29\% \times \$50,000.00 = \$7,145.00$$

As an additional example, and by way of example only, if, for the period ending December 31, 2024, the Jobs Commitment provides for the maintenance of not less than 80 jobs satisfying the

Jobs Commitment, the actual number jobs satisfying the Jobs Commitment is 60, and the Special Source Revenue Credit to which the Company would otherwise be entitled for the period ending December 31, 2025 is twenty five thousand dollars (\$25,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (d) would be calculated as follows:

**Jobs Commitment for period ending December 31, 2024:** 80 Qualified Full-Time Jobs

**Jobs Maintained for period ending December 31, 2024:** 60 Qualified Full-Time Jobs

**Special Source Revenue Credit reduction for period ending December 31, 2025:**

$$[80 - 60] / 80 = 20 / 80 = 25\%$$

$$25\% \times \$25,000.00: \$6,250.00$$

(e) Notwithstanding any other provision of this Agreement, Company acknowledges and agrees that County's obligation to provide the Special Source Revenue Credits ends, and this Agreement is terminated, if the Company ceases operations. For purposes of this Section 4.3(e), "**cease operations**" means permanent closure of the facility. Company agrees that if this Agreement is terminated pursuant to this Section 4.3(e), that under no circumstance shall the County be required to refund or pay any monies to Company.

**SECTION 4.4 Term.** The term of this Agreement shall be from the effective date of this Agreement until December 31, 2028 unless earlier terminated pursuant to Section 4.3(e) hereof or pursuant to the exercise by the Company of its option to terminate pursuant to Section 8.1 hereof.

## **ARTICLE V EFFECTIVE DATE**

**SECTION 5.1 Effective Date.** This Agreement shall become effective as of the date first written above.

## **ARTICLE VI SPECIAL COVENANTS**

### **SECTION 6.1 Confidential Information.**

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



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

#### **SECTION 6.2 *Indemnification Covenants.***

(a) The Company shall and agrees to hold the County and its County Council members, officers, agents and employees harmless from all pecuniary liability based upon those reasons set forth in subsection (b) below. Such indemnification obligation shall survive any termination of this Agreement.

(b) Notwithstanding the fact that it is the intention of the parties that neither the County nor any of its County Council members, officers, agents and employees shall incur any pecuniary liability to any third party (i) by reason of the terms of this Agreement or the undertakings of the County required hereunder, (ii) by reason of the performance of any act in connection with the entering into and performance of the transactions described in the Documents, or (iii) by reason of the condition or operation of the Project, including claims, liabilities or losses arising in connection with the violation of any statutes or regulations, if the County or any of its County Council members, officers, agents or employees should incur any such pecuniary liability, then, in that event the Company shall indemnify and hold harmless the County and its County Council members, officers, agents and employees against all pecuniary claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim. The provisions of this Section 6.2 shall survive any termination of this Agreement.

(c) Notwithstanding the foregoing, the Company shall not be obligated to indemnify the County or any of its individual members, officers, agents and employees for expenses, claims, losses or damages arising from the intentional or willful misconduct or negligence of the County or any of its individual officers, agents or employees.

**SECTION 6.3 *Assignment.*** With the County's consent, which shall not be unreasonably withheld, any or all of the Company's interest in the Project and/or this Agreement may be

transferred or assigned by the Company or any assignee to any other entity, without the termination of the benefits provided in this Agreement. The County hereby expressly consents to any such transfer or assignment by the Company to any Company affiliate. The County agrees that the County Council can provide any required consent by a resolution of County Council.

## ARTICLE VII EVENTS OF DEFAULT AND REMEDIES

**SECTION 7.1 *Events of Default Defined.*** The occurrence of any one or more of the following events shall be an “Event of Default” under this Agreement:

(a) If the Company shall fail to make any Payment-in-Lieu-of-Taxes or payment of any other amount required under this Agreement and such failure shall continue for 30 days after receiving written notice of default from the County; or

(b) If the Company shall fail to observe or perform any covenant, condition, or agreement required herein to be observed or performed by the Company (other than as referred to in subsection (a) above), and such failure shall continue for a period of 30 days after written notice of default has been given to the Company by the County; *provided, that*, if, by reason of “*force majeure*”, as hereinafter defined, the Company is unable in whole or in part to carry out any such covenant, condition, or agreement or if it takes longer than 30 days to cure such default and the Company is diligently attempting to cure such default during such period, there shall be no Event of Default during such inability. The term “*force majeure*” as used herein shall mean circumstances not reasonably within the control of the parties, such as, without limitation, acts of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilization or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy; or

(c) If any material representation or warranty on the part of the Company or the County made in the Documents, or in any report, certificate, financial or other statement furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

**SECTION 7.2 *Remedies on Default.*** Whenever any Event of Default by the Company shall have happened and be subsisting, the County may terminate this Agreement and/or take whatever action at law or in equity may appear legally required or necessary or desirable to collect any payments then due. As set forth in Section 8.1 hereof, the Company may terminate this Agreement at any time upon providing 30 days’ notice to the County, without regard to any Event of Default. Although the parties acknowledge that the Project is exempt from *ad valorem* taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, enforce the collection of the Payments-in-Lieu of Taxes as provided in Section 12-2-90, Code of Laws of South Carolina 1976, as amended, and exercise the remedies provided by general law (Title 12, Chapter 49) and the laws relating to the enforced collection of taxes, and



shall have a first priority lien status as provided in the Acts and Chapters 4 and 54 of Title 12, Code of Laws of South Carolina 1976, as amended.

**SECTION 7.3 *No Remedy Exclusive.*** No remedy herein conferred upon or reserved to the County or Company is intended to be exclusive of any other available remedy or remedies, but in each and every instance such remedy shall be cumulative and shall be in addition to every other remedy given under the Documents or now or hereafter existing at law or in equity or by statute. Unless otherwise provided herein or in the other Documents, no delay or omission to exercise any right or power shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**SECTION 7.4 *No Additional Waiver Implied by One Waiver.*** In the event any warranty, covenant or agreement contained in this Agreement should be breached by the Company or the County and thereafter waived by the other party to this Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

**SECTION 7.5 *Default by County.*** Upon the default of the County in the performance of any of its obligations hereunder, the Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for mandamus or specific performance.

## **ARTICLE VIII COMPANY OPTION TO TERMINATE**

**SECTION 8.1 *Company Option to Terminate.*** From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days' notice, the Company may terminate this Agreement with respect to the entire Project or any portion thereof. Upon termination of all or part of this Agreement, the Company will become liable, prospectively but not retroactively, for *ad valorem* property taxes on the Project or such portion thereof as is so terminated from inclusion in the Project, as well as for any amounts already due and owing under this Agreement, which latter amounts, if any, shall be paid to the County with the next installment of Payments-in-Lieu-of-Taxes pursuant to Section 4.1, or, if the termination is of the entire Project, then within 120 days of termination. The Company agrees that if this Agreement is terminated pursuant to this Section 8.1, that under no circumstance shall the County be required to refund or pay any monies to the Company.

## **ARTICLE IX MISCELLANEOUS**

**SECTION 9.1 *Notices.*** All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this Section 9.1:

If to the Company:

Mr. Johnny Nassri  
Unique USA, Inc.  
C/O Chester Warehouse  
104 Williamson Street  
Fort Mill, SC 29715  
Email: johnnynassri@gmail.com

With a copy to:

Charles S. Bradford  
Charles S. Bradford, P.A.  
4 E. Liberty Street (street address)  
P.O. Box 977 (mailing address)  
York, SC 29745  
Phone: (803) 684-4888  
Facsimile: (803) 684-4488  
Email: charles@csblawfirm.com

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](mailto:jgilbert@lancastercountysc.net)

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; or (2) by certified mail, three (3) business days after delivery to the U.S. Postal authorities by the party serving notice.



**SECTION 9.2 *Binding Effect.*** This Agreement shall inure to the benefit of and shall be binding upon the County and the Company and their respective successors and assigns.

**SECTION 9.3 *Rescission and Severability.*** In the event that the Acts or the Special Source Revenue Credit arrangement described in Article IV hereof is determined to be invalid in its entirety, the parties hereby agree that except as the final judicial decision may otherwise require, the Company shall be entitled to retain any benefits received under or pursuant to this Agreement; otherwise, in the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this Agreement, unless that decision destroys the basis for the transaction, in which event, at the expense and sole discretion of the Company, the parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company hereunder by either restructuring or reconstituting this Agreement under any then applicable law.

**SECTION 9.4 *Fiscal Year.*** If the Company's fiscal year changes in the future, the timing of the requirements set forth in this Agreement shall, as appropriate, be automatically revised accordingly, to the extent allowed by law.

**SECTION 9.5 *Amendments, Changes and Modifications.*** Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated without the written consent of the County and the Company. To the maximum extent allowed by law, any County consent, including specifically and without limitation any County consent referred to in this Agreement, may be provided by a resolution of County Council.

**SECTION 9.6 *Execution of Counterparts.*** This Agreement may be executed in several counterparts, each of which shall constitute an original instrument.

**SECTION 9.7 *Law Governing Construction of Agreement.*** The laws of South Carolina shall govern the construction of this Agreement.

**SECTION 9.8 *Filings.*** The Company shall cause a copy of this Agreement to be filed with the County Auditor, the County Assessor and SCDOR within thirty (30) days after the date of execution and delivery hereof.

**SECTION 9.9 *Filing of Reports and Certifications.*** Each year during the term of this Agreement, the Company shall deliver to the County Auditor, the County Assessor, the County Treasurer, and the County Economic Development Director a copy of its most recent annual filings with the SCDOR with respect to the Project, not later than 30 days following delivery thereof to the SCDOR.

**SECTION 9.10 *Headings.*** The headings of the articles and sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement.

**SECTION 9.11 *Further Assurance.*** From time to time the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request to effectuate the purposes of this Agreement.

**SECTION 9.12 *Administrative Expenses*** (a) Company agrees to reimburse the County from time to time for its Administrative Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administrative Expenses. As used in this section, "Administrative Expenses" means the reasonable and necessary out-of-pocket expenses, including attorneys' fees, incurred by the County with respect to (i) the preparation, review, approval and execution of this Agreement, (ii) the preparation, review, approval and execution of any related multi-county park documents, (iii) the preparation, review, approval and execution of other documents related to the Agreement and multi-county park documents, and (iv) the fulfillment of its obligations under this Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof.

(b) In addition to the reimbursement of Administrative Expenses as provided in subsection (a) of this section, the Company agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual Payment in Lieu of Taxes and any special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at five hundred dollars (\$500.00).

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]**

IN WITNESS WHEREOF, LANCASTER COUNTY, SOUTH CAROLINA, and  
UNIQUE USA, INC., pursuant to due authority, have duly executed this Special Source Revenue  
Credit Agreement, all as of November 13, 2017.

**LANCASTER COUNTY, SOUTH CAROLINA**

By: \_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

**UNIQUE USA, INC.**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## Agenda Item Summary

Ordinance # / Resolution#: Resolution # 0967-R2017 and Ordinance # 2017-1479  
Contact Person / Sponsor: Jamie Gilbert  
Department: Economic Development  
Date Requested to be on Agenda: October 23, 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 301 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.

### **Council Options:**

Vote to approve or decline first reading of Resolution # 0967-R2017 and Ordinance # 2017-1479 which sets FILOT and SSRC conditions for Project Rhino.

### **Recommendation:**

Approve Resolution # 0967-R2017 and Ordinance # 2017-1479 for Project Rhino.



STATE OF SOUTH CAROLINA

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RESOLUTION NO. 0967-R2017

COUNTY OF LANCASTER

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**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 SSRs 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 SSRs 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 SSRs 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 SSRs 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 SSRs 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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## Agenda Item Summary

Ordinance # / Resolution#:	Resolution 0978-R2017
Contact Person / Sponsor:	Hal Hiott/ Kim Hill
Department:	Parks & Recreation/ Finance
Date Requested to be on Agenda:	October 23, 2017

### **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. 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:**

Approval or denial of the Resolution.

### **Staff Recommendation:**

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

### **Committee Recommendation:**

Positive recommendation from both Committees.

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

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RESOLUTION NO. 0978-R2017

**A RESOLUTION**

**TO AUTHORIZE THE TRANSFER OF FUNDS WITHIN THE COUNTY GENERAL FUND; TO AUTHORIZE CERTAIN COUNTY OFFICIALS TO TAKE ACTIONS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS RESOLUTION.**

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

**Section 1.      Transfer of Funds.**

Council authorizes and approves the County Administrator and Chief Financial Officer to transfer four hundred fifty thousand dollars (\$425,000) from account 17-9-011-961-00 to be utilized at Buford Recreation Center.

**Section 2.      Authority to Act.**

The County Administrator, County Chief Financial Officer and any other appropriate County official are each authorized to take such actions and to execute such documents as may be necessary to effectuate the purposes of this resolution.

**Section 3.      Conflicting Provisions.**

To the extent this resolution contains provisions that conflict with provisions contained elsewhere in other Lancaster County resolutions, policies, procedures and actions, the provisions contained in this resolution supersede all other provisions and this resolution is controlling.

**Section 4.      Severability.**

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

**Section 5.      Effective Date.**

This resolution is effective upon its adoption.

**AND IT IS SO RESOLVED**

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



## Agenda Item Summary

Ordinance # / Resolution#: Ordinance # 2017-1470

Contact Person / Sponsor: Steve Willis

Department: Finance

Date Requested to be on Agenda: Council Regular Meeting October 23, 2017

**Issue for Consideration:**

Ordinance to amend the FY2018 Budget. **AMENDMENT NEEDED.**

**Points to Consider:**

Per discussion at prior meetings, an amendment is proposed to lower the general fund portion of the Indian Land Satellite Office and increase the Stormwater Fund portion. The details of it are listed in the table below.

**General Fund Detail**

Rent	\$14,569
Utilities	\$2,000
Renovation	\$7,050
IT Upgrades & Equipment	\$19,481
Furnishing/Contingency	\$6,940
Total	\$50,040

**Stormwater Detail**

Rent	\$16,429
Renovations	\$7,950
IT Equipment	\$19,860
Furnishing	\$5,215

Total	\$49,454
-------	----------

The changes represent Stormwater fund being charged 53% of rent for the remainder of the year as well as 53% of renovations. The percentage was derived based off of square footage that will be occupied by the varying departments. Changes also include a split in the cost of IT for shared areas/services (i.e. conference room, security system for building, etc.) General fund will retain costs of utilities as it will come from a general utility account used for most county buildings.

**Funding and Liability Factors:**

This will amend our current budget.

**Council Options:**

Whether or not to approve of the FY2017-2018 budget amendment.

**Recommendation:**

Approve.

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

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)  
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ORDINANCE NO. 2017-1470

~~Indicates Matter Stricken~~

Indicates New Matter

**AN ORDINANCE**

**TO AMEND ORDINANCE NO. 2017-1447, RELATING TO THE APPROPRIATION OF FUNDS AND THE APPROVAL OF A DETAILED BUDGET FOR LANCASTER COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2017 AND ENDING JUNE 30, 2018 (FY 2017-2018), TO FURTHER PROVIDE FOR REVENUES AND EXPENDITURES DURING THE FISCAL YEAR.**

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

**Section 1. Appropriations; Detailed Budget.**

(a) Section 2. of Ordinance No. 2017-1447 is amended to read:

/A. Subject to the terms and conditions of this ordinance, the sums of money set forth below, if so much is necessary, are appropriated from the General Fund of the County and other applicable funds as specified, to meet the ordinary expenses, including debt service, of county government for the fiscal year beginning July 1, 2017 and ending June 30, 2018 (FY 2017-2018):

APPROPRIATIONS	AMOUNT
Airport Fund	232,233
Capital Improvement Fund	1,826,832
Capital Project Sales Tax 2	12,884,471
County Debt	6,524,686
County Transportation Committee Fund	2,850,000
Court Mandated Security	1,371,695
Development Agreement Fund	302,000
E-911 Fund	598,945
General Fund	51,219,774
	51,654,414
	<u>\$51,624,814</u>
Hospitality Tax Fund	950,000
Indian Land Fire Protection District Fund	704,438
Local Accommodations Tax Fund	55,000
Pleasant Valley Fire Protection District Fund	630,294
Recreation Fund	2,564,282
Victims Services Fund	93,000
State Accommodations Tax Fund	107,581
Sunday Alcohol Sales Tax Fund	7,000
<u>Stormwater Fund</u>	<u>1,027,690</u>

Ordinance No. 2017-1470

Page 1 of 3

(b) The County Administrator is authorized to adjust the detailed operating budget for the County, as contained in the Annual Financial Plan, as previously approved by Council in Section 2A) of Ordinance No. 2017-1447, for the following items:

General Fund		Revenue	Expense
	Supplemental Revenue- Fund Balance	\$434,640 \$405,040	
	Fire Study		49,800
	Easement		20,000
	Replacement Stretchers (3)		45,200
	Skid Steer		\$80,000
	Emergency Medical Services Vehicle		\$60,000
	Indian Land Satellite Office rent, renovations, & upfits		\$79,640 \$50,040
	Legal		\$100,000
Stormwater Fund	Supplemental Revenue- Stormwater Fee & Plan Review Fee	1,027,690	
	Stormwater Department		1,027,690

**21.00 STORMWATER FEES**

Residential Stormwater Fee	Per Equivalent Residential Unit	\$60.00
Commercial Stormwater Fee	Per Equivalent Residential Unit	\$60 max. 35% of real property tax or incentive fee*
Plan Review Fees	Per undisturbed acre	\$250.00

\*For commercial properties exempt from real property taxes, the 35% max. is not applicable

**Section 4. 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 5. Conflicting Provisions.**

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

**Section 6. 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 Simpson, Clerk to Council

First Reading:	September 25, 2017	Passed 6-0
Second Reading:	October 9, 2017	Passed 7-0
Public Hearing:	October 23, 2017	
Third Reading:	October 23, 2017	



# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

## PUBLIC HEARING NOTICE Fiscal Year 2017-2018 LANCASTER COUNTY BUDGET

The County of Lancaster will hold a public hearing on **Monday, October 23, 2017** at 6:30pm in County Council Chambers, County Office Building, 101 N. Main St., 2nd floor, Lancaster, SC, for the purpose of obtaining written and oral comments from the public concerning the adoption of an Ordinance amending the Fiscal Year 2017-2018 County Budget.

### ORDINANCE 2017-1470 TO AMEND ORDINANCE 2017-1447

**TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR LANCASTER COUNTY FOR THE FISCAL YEAR BEGINNING JULY 1, 2017 AND ENDING JUNE 30, 2018 (FY2017-2018); TO SPECIFY THE SOURCE OF FUNDS FOR THE SUPPLEMENTAL APPROPRIATIONS:**

General Fund		Revenue	Expense
	Supplemental Revenue- Fund Balance	\$434,640	
	Fire Study		49,800
	Easement		20,000
	Replacement Stretchers (3)		45,200
	Skid Steer		\$80,000
	Emergency Medical Services Vehicle		\$60,000
	Indian Land Satellite Office rent, renovations, & upfits		\$79,640
	Legal		\$100,000
Stormwater Fund	Supplemental Revenue- Stormwater Fee & Plan Review Fee	1,027,690	
	Stormwater Department		1,027,690

### 21.00 STORMWATER FEES

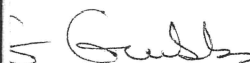
Residential Stormwater Fee	Per Equivalent Residential Unit	\$60.00
Commercial Stormwater Fee	Per Equivalent Residential Unit	\$60 max. 35% of real property tax or incentive fee*
Plan Review Fees	Per disturbed acre	\$250.00

\*For commercial properties exempt from real property taxes, the 35% max. is not applicable

At the time and place fixed for said public hearing, all interested persons who appear will be given an opportunity to express their views for or against this ordinance. Persons requiring special arrangements to attend this meeting due to a physical disability should contact the Administrator's office at 285-1565 at least 24 hours in advance.

At the time and place fixed for said public hearing, all interested persons who appear will be given an opportunity to express their views for or against this ordinance. Persons requiring special arrangements to attend this meeting due to a physical disability should contact the Administrator's office at 285-1565 at least 24 hours in advance.

published in The Lancaster



Notary Public of South Carolina

My Commission Expires  
January 13, 2021



# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

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Stormwater Fund	Supplemental Revenue- Stormwater Fee & Plan Review Fee	1,027,690	
	Stormwater Department		1,027,690

### 21.00 STORMWATER FEES

1372 Lymon Reece Rd.  
Lancaster, South Carolina  
(Off 200 South behind KFC and former Lancaster Bowling Center)  
For more information, visit our website:  
cornerstonebiblechurchlancastersc.com

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of *October 6, 2017*.

*Benita G. Gault*

Notary Public of South Carolina

My Commission Expires  
January 13, 2021

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STATE OF SOUTH CAROLINA

)

COUNTY OF LANCASTER

)

ORDINANCE NO. 2017-1471

AN ORDINANCE

TO AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND AMONG LANCASTER COUNTY, DANNY SIMPSON AND SIMPSON ELECTRIC COMPANY PROVIDING FOR 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 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 Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the “SSRC Law”), to enter into agreements to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

(b) Danny Simpson, individually, and Simpson Electric Company (collectively, the “Company”) is considering investing over seven (7) years, through itself and/or one or more existing or to be formed affiliated entities and/or one or more unrelated parties, in real and personal property located in the County, the cost of which is estimated to be approximately \$1,250,000 (the “Project”);

(c) the Project is anticipated to result in approximately 100 jobs of which at least 50 will be jobs that meet the County’s criteria for incentives;

(d) pursuant to Resolution No. 0961-R2017, adopted June 12, 2017, the Council approved an Inducement Resolution providing for, among other things, the agreement of the County to enter into an agreement to provide special source revenue credits to the Company and detailing the terms of the provision of special source revenue credits with respect to the Project;

(e) the Company 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 Company (the “SSRC Agreement”), which provides for special source revenue credits equal to fifty percent (50%) of the annual payments in lieu of tax for the first five years of the Project; and



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

**Section 2.      Approval of SSRC Agreement.**

Subject to the provisions of Section 4 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the workforce, products, and natural resources of the State by assisting the Company to expand or locate the Project in the State, the SSRC Agreement is hereby authorized, ratified, and approved.

**Section 3.      Statutory Findings.**

The Council makes the following additional findings:

(a) The County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the SSRC Law.

(b) The Project, the payments in lieu of taxes, and the special source revenue credits 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 SSRC Agreement.**

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



**Section 5.      Economic Development Fund.**

(A) The County Council finds that (i) by passage of Ordinance No. 2014-1260, the 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 SSRC Agreement. Specifically, it is the 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 SSRC Agreement 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 SSRC Agreement and the performance of all obligations of the County under and pursuant to the SSRC Agreement.

**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 takes effect 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 Simpson, Clerk to Council

First Reading:	September 25, 2017	Passed 6-0
Second Reading:	October 9, 2017	Passed 7-0
Public Hearing:	October 23, 2017	
Third Reading:	October 23, 2017	

**Exhibit A to Ordinance No. 2017-1471**

**SSRC Agreement**

See attached.

## SPECIAL SOURCE REVENUE CREDIT AGREEMENT

This SPECIAL SOURCE REVENUE CREDIT AGREEMENT (the "Agreement") is entered into as of October 23, 2017, by and between Danny Simpson, individually, Simpson Electric Company, a North Carolina corporation (collectively with Danny Simpson, the "Company"), and Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the "County").

### RECITALS

**WHEREAS**, the County, acting by and through its County Council (the "Council") is authorized and empowered pursuant to the provisions of Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the "SSRC Law"), to enter into agreements to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

**WHEREAS**, the Company is considering the construction of a corporate headquarters facility, by construction or purchase of certain Land (as defined below), buildings, structures, appurtenances, furnishings, fixtures, machinery, apparatus, and equipment, in the County (the "Project"). The Company anticipates that the Project will result in an investment over seven (7) years of approximately One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) in the County;

**WHEREAS**, the Project is expected to result in the employment of approximately one hundred (100) jobs of which at least fifty (50) will be full-time jobs that meet the County's criteria for incentives;

**WHEREAS**, the County and Chesterfield County, South Carolina have established a joint county industrial and business park (the "Park"), pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170, Code of Laws of South Carolina 1976, as amended (the "MCP Laws"), within which Park the Project is located;

**WHEREAS**, pursuant to the provisions of the Park Agreement (as defined herein) and the MCP Laws, all property within the boundaries of the Park is exempt from *ad valorem* taxes, however, the owners and lessees of the tax exempt property are required to make or cause to be made payments-in-lieu of *ad valorem* taxes to the County; and

**WHEREAS**, by Ordinance No. 2017-\_\_\_\_, enacted on October 23, 2017, Council authorized the execution and delivery of this Agreement.

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



## ARTICLE I DEFINITIONS

The terms defined in this Article I shall for all purposes of this Agreement have the meanings herein specified, unless the context clearly otherwise requires. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa.

*“Administrative Expenses”* shall mean the reasonable and necessary out-of-pocket expenses, including reasonable 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 any related multi-county park documents; (iii) the preparation, review, approval and execution of other documents related to this Agreement and multi-county park documents; (iv) the fulfillment of its obligations under this Agreement and any multi-county park documents; and (v) the implementation and administration of the terms and provisions of the documents after the date of execution thereof; provided, however, that no such expense shall be considered an Administrative Expense unless the County includes in its request for reimbursement a description of the nature of the Administrative Expense, as required in Section 2.06(b) of this Agreement.

*“Agreement”* shall mean this Special Source Revenue Credit Agreement, as the same may be amended, modified or supplemented in accordance with the terms hereof.

*“Co-Investor”* shall mean the Company, any entity that joins with or is an affiliate of the Company and that participates in the investment in, or financing of, the Project, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, providing funds for or otherwise making investment in real or personal property in connection with the Project. The Company shall notify the County in writing of the identity of any other Co-Investor and shall, to the extent the Company and any such other Co-Investor intend to extend the benefits of the Special Source Revenue Credits to property owned by any such Co-Investor pursuant to this Agreement, comply with the Jobs Commitment and any additional notice requirements, or other applicable provisions, of the SSRC Law.

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

*“Company”* shall mean, individually or collectively as the context may require, Danny Simpson, an individual, and Simpson Electric Company, a North Carolina corporation, and their respective successors and assigns, as permitted herein.

*“Cost”* or *“Cost of Infrastructure”* means the cost of Infrastructure incurred by the Company, whether incurred prior to or after the date of this Agreement, including, to the extent permitted by the SSRC Law, but not limited to: (i) the cost of designing, acquiring, constructing, improving or expanding the Infrastructure; (ii) design, engineering and legal fees incurred in the design, acquisition, construction or improvement of the Infrastructure; (iii) obligations reasonably incurred for labor, materials and other expenses to builders and materialmen in connection with

the acquisition, construction, and installation of the Infrastructure; (iv) the reasonable cost of construction bonds and of insurance of all kinds that may be required or necessary during the course of construction and installation of the Infrastructure, which is not paid by the contractor or contractors or otherwise provided for; (v) the reasonable expenses for test borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction, and installation of the Infrastructure; and (vi) all other reasonable costs which shall be required under the terms of any contract for the acquisition, construction, and installation of the Infrastructure.

“*County*” shall mean Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.

“*Council*” shall mean the governing body of the County.

“*Event of Default*” shall mean, with reference to this Agreement, an occurrence described in Section 5.01 hereof.

“*Fee Payments*” shall mean payments-in-lieu of *ad valorem* property taxes made or to be made by the Company with respect to the Project pursuant to the Park Agreement and the MCP Laws.

“*Full-Time Job*” means a full-time job (*i.e.*, at least thirty (30) hours per week), with health care benefits.

“*Infrastructure*” shall have the meaning attributable to such term under Section 4-29-68 of the Code, and shall specifically include, without limitation, to the extent permitted by law, the following: (i) infrastructure serving the County or the Project, including, but not limited to, buildings, rail improvements, roads, water and sewer facilities and other utilities; (ii) improved or unimproved real property, and all fixtures attached thereto, used in the operation of the Project; and (iii) personal property, including machinery and equipment, used in the operation of the Project.

“*Jobs Commitment*” means the commitment of the Company and any Co-Investor to employ Full-Time Jobs with respect to the Project as set forth in Section 2.06(a) of this Agreement.

“*Land*” shall mean and refer to the real property in the County more specifically identified in the records of the County Assessor by Parcel Identification No. 0010-00-050.10 and located at 9048 Northfield Drive, Indian Land.

“*Park*” shall mean the joint county industrial and business park established pursuant to the terms of the Park Agreement.

“*Park Agreement*” shall mean the Amended and Restated Master Multi-County Park Agreement, Amended and Restated as of November 9, 2015, between the County and Chesterfield County, South Carolina, as from time to time amended and updated, and as authorized by the MCP Laws.



*"Person"* shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, or a government or political subdivision.

*"Project"* shall have the meaning ascribed to it in the Recitals.

*"Special Source Revenue Credits"* or *"Credits"* shall mean the special source revenue credits in the amount set forth in Section 3.02 hereof against the Company's Fee Payments.

*"State"* shall mean the State of South Carolina.

*"Wage Requirement"* means Seventeen Dollars (\$17.00) per hour.

## ARTICLE II REPRESENTATIONS AND WARRANTIES

**Section 2.01 Representations by the County.** The County represents that: (i) it is a body politic and corporate and a political subdivision of the State; (ii) it is authorized by the SSRC Law to enter into this Agreement; (iii) it has approved this Agreement in accordance with the procedural requirements of the SSRC Law and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Agreement.

**Section 2.02 Statutory Accommodation.** Notwithstanding any other provision of this Agreement, the County is executing this Agreement as a statutory accommodation to assist the Company in achieving the intended benefits and purposes of the SSRC Law. The County has made no independent legal or factual investigation regarding the particulars of the Project and it executes this Agreement in reliance upon representations by the Company that this Agreement and other documents, and the Project, comply with all laws and regulations, particularly those pertinent to industrial development projects in the State. 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 2.03 No County Monetary Obligations.** 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 2.04 Representations by the Company.** The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Simpson Electric Company is a corporation in good standing under the laws of the State, the Company has the power to enter into this Agreement, and by proper corporate action Simpson Electric Company has been duly authorized to execute and deliver this Agreement.

(b) This Agreement has been duly executed and delivered by the Company and constitutes the legal, valid, and binding obligation of the Company, enforceable in accordance with its terms except as enforcement thereof may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally.

(c) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement, will not result in a material breach of any of the terms, conditions, or provisions of any Company restriction or any agreement or instrument to which the Company is now a party or by which it is bound, will not constitute a default under any of the foregoing, and will not result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of the Company, other than as may be created or permitted by this Agreement.

(d) To the best knowledge of the undersigned representative of the Company, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, any of which could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.

(e) To the knowledge of the undersigned representative of the Company, there is no pending or threatened action, suit, proceeding, inquiry or investigation which would materially impair the Company's ability to perform its obligations under the Agreement.

#### **Section 2.05 Covenants of the County.**

(a) The County covenants that it will from time to time and at the expense of the Company execute and deliver such further instruments, in form and substance reasonably acceptable to the County, and take such further action as may be reasonable and as may be required to carry out the purpose of this Agreement; *provided, however*, that such instruments or actions shall never create or constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the County, or a charge against its general credit or taxing power, or pledge the credit or taxing power of the State or any other political subdivision of the State.

(b) The County covenants with the Company to maintain the Land in the Park for so long as the Company receives Special Source Revenue Credits pursuant to this Agreement.

#### **Section 2.06 Covenants of the Company.**

(a) For the Project, the Company, and each Co-Investor, agrees and commits to the number of Full-Time Jobs for the Project, paying an average hourly wage rate not less than the Wage Requirement, at the following employment levels and in the designated timeframes: (i) to have employed in Full-Time Jobs an average of not less than thirty (30) for (x) each remaining full month of the calendar year following the month in which the Company receives a certificate of



occupancy or similar type approval from the County for investments made by the Company in the Project; or (y) the six-month period ranging from July 2018 to December 2018, whichever period is later; (ii) to have employed in Full-Time Jobs an average of not less than forty (40) during the twelve month period ending December 31 of the calendar year immediately following the year in which the Company receives a certificate of occupancy or similar type approval from the County for investments made by the Company in the Project; (iii) to have employed in Full-Time Jobs an average of not less than fifty (50) during the twelve month period ending December 31 of the second calendar year immediately following the year in which the Company receives a certificate of occupancy or similar type approval from the County for investments made by the Company in the Project, and for each twelve month period thereafter in which the Company is receiving a Special Source Revenue Credit pursuant to Section 3.02 of this Agreement. The number of Full-Time Jobs shall be based on the average number of Full-Time Jobs for each month during the period in which Full-Time Jobs are measured as provided in this Section 2.06(a). The County acknowledges and agrees that in determining whether Company, or any Co-Investor, is in compliance with the provisions of this Section 2.06(a), Company, and each Co-Investor, may include in the measurement period Full-Time Jobs of the Company and any other Co-Investor in the Project.

(b) The Company agrees to reimburse the County from time to time for its Administrative Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administrative Expenses, *provided, however*, the maximum total reimbursement for Administrative Expenses pursuant to this subsection (b) is capped at Five Thousand Dollars (\$5,000.00).

(c) The Company acknowledges that under the MCP Laws, the Project and Land is exempt from *ad valorem* property taxes and that the Company is required to make annual Fee Payments with respect to the Project and Land in an amount equal to what such *ad valorem* property taxes would be if the Project were not located in the Park, less the Special Source Revenue Credit that is provided in Section 3.02. The Fee Payments to be made by the Company under this Agreement shall be calculated in the same manner as *ad valorem* taxes. The collection and enforcement of the Fee Payments shall be as provided in Section 12-2-90 of the Code.

**Section 2.07 Indemnification.** The Company releases the County, including the members of Council, and the employees, officers, and agents of the County (herein collectively referred to as the "Indemnified Parties") from, agrees that Indemnified Parties shall not be liable for, and agrees to hold Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person or any other liability whatsoever, including without limitation, liability under any regulatory or environmental laws, that may be occasioned by any cause whatsoever pertaining to this Agreement, the Project, or the use thereof except to the extent such losses or damages are attributable to such Indemnified Party's gross negligence, willful misconduct or breach of this Agreement. The Company further agrees to indemnify and save harmless Indemnified Parties against and from any and all costs, liabilities and expenses, including, but not limited to, attorneys' fees and claims arising from such events or occurrences and arising from the performance of an Indemnified Party of any obligations of the County under this Agreement or any breach or default on the part of the Company in the performance of any

covenant or agreement on the part of the Company to be performed pursuant to the terms of this Agreement or arising from any grossly negligent or intentional act or negligence of, or failure to act by, the Company, or any of its agents, contractors, servants, employees, lessees or licensees, and from and against all cost, liability, and expenses, including, but not limited to, attorneys' fees incurred in or in connection with any such claim, liability, or action or proceeding brought thereon.

All covenants, stipulations, promises, agreements, and obligations of the County contained in this Agreement shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and not of any member of Council or any officer, agent, servant, or employee of the County in his individual capacity, and, absent bad faith, 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 Council or any officer, 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 Project or 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 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 Company shall indemnify and hold them harmless against all claims by or on behalf of any Person or other legal entity arising out of the same and all costs and expenses, including, but not limited to, attorneys' fees incurred in connection with any such claim or in connection with any action or proceeding brought thereon. If any action, suit, or proceeding is brought against any Indemnified Party, such Indemnified Party shall promptly notify the Company and the 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 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 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 Company reasonably determines that a conflict of interest exists between the County and the Company, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Company shall be liable for the reasonable cost of such counsel.

The indemnity specified in this Section 2.07 shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

### ARTICLE III SPECIAL SOURCE REVENUE CREDITS

**Section 3.01 Payment of Cost of Infrastructure.** The Company agrees to pay, or cause to be paid, the Cost of Infrastructure as and when due. The Company agrees that, as of any date during the term of this Agreement, the cumulative dollar amount expended by the Company on Infrastructure shall equal or exceed the cumulative dollar amount of the Special Source Revenue



Credits received by the Company. Upon request of the County, the Company shall provide documentation to the County reflecting the Cost of Infrastructure.

### **Section 3.02 Special Source Revenue Credits.**

(a) The County agrees to provide Special Source Revenue Credits to the Company for five (5) consecutive years equal to fifty percent (50%) of the Fee Payments on all investment in the Project in real and personal property. The County tax officials shall apply the Credits against the Fee Payments that would otherwise be due from the Company. The Special Source Revenue Credits begin with, and shall be applied to, the first Fee Payments due from the Company following the issuance of a certificate of occupancy or similar type approval from the County for investments by the Company in the Project. The Company, and each Co-Investor, must comply with the Jobs Commitment to receive the Credits and the amount of the Credits is subject to adjustment as provided in Section 3.02(e). The County acknowledges and agrees that in determining whether Company, or any Co-Investor, is in compliance with the provisions of the Jobs Commitment contained in Section 2.06(a), Company and each Co-Investor may include in the measurement period Full-Time Jobs of the Company and any other Co-Investor in the Project.

*Example No. 1.* As an example of how and when the Credits are applied, and only as an example, assume the Company is a calendar year taxpayer (January 1 through December 31), it completes construction of a facility on the Land and receives a certificate of occupancy or similar type approval from the County on June 29, 2018 to occupy and use the facility for the purposes of the Project. The County tax officials will prepare a Fee Payment bill in the fall of 2019 for the Company's real and personal property and payment will be due from the Company in January 2020 and it is this Fee Payment that will include the first of the five consecutive years of the Special Source Revenue Credits. Pursuant to the Jobs Commitment, to receive the full amount of the Credit on the Fee Payment due in January 2020, the Company will have to have had employed in Full-Time Jobs an average of not less than thirty (30) during the six-month period of July 2018 through December 2018. See Section 3.02(e) for examples of how the amount of the Credit is adjusted when the Jobs Commitment is not met.

*Example No. 2.* As another example of how and when the Credits are applied, and only as an example, making the same assumptions as in Example No. 1 above, but also assuming the Company has received Credits on the Fee Payments due in January 2020 (first year) and January 2021 (second year). To receive the Credit on the Fee Payment due in January 2022 (third year), the Company will have to have had employed in Full-Time Jobs an average of not less than fifty (50) during the twelve-month period of January 2020 through December 2020.

(b) In accordance with Section 4-29-68(A)(2)(ii) of the Code, to the extent that the Company claims Special Source Revenue Credits as payment for personal property, including machinery and equipment, if such property is removed from the Project during the term of this Agreement, the amount of the Fee Payments due on such personal property for the year in which the personal property was removed from the Project also shall be due for the two years following such removal.

(c) Company agrees, as soon as reasonably practicable following the end of each tax year of the Company, to submit to the County Economic Development Director a certification on Company letterhead listing the aggregate number of Full-Time Jobs maintained by the Company at the end of such tax year.

(d) For purposes of determining compliance with the Jobs Commitment, Company agrees to provide to the County Economic Development Director, by January 30 of each year, a copy of all of Company's filings with the State (if required to file by the State) for the preceding calendar year including: (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). Company agrees to redact any personally identifying information and proprietary and confidential information prior to submitting any form to the County Economic Development Director. In lieu of providing any of the forms specifically identified in this subsection, Company and the County Economic Development Director may agree on an alternative method for the Company to demonstrate compliance with the Jobs Commitment.

(e) Company agrees that the Special Source Revenue Credits for a year shall be reduced to the extent that the Company fails to meet the Jobs Commitment 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 at the end of 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.

*Example No. 3.* As an example of how the Credits are adjusted when the Jobs Commitment is not met, and by way of example only, using the assumptions contained in Example No. 1 in Section 3.02(a), assume that to receive the second year of the Credit the Jobs Commitment number is 40 jobs and the actual number of Full-Time Jobs satisfying the Jobs Commitment is 30, and the Special Source Revenue Credit to which the Company would otherwise be entitled for the Fee Payment due in January 2021 is \$50,000.00, then the reduction of the Special Source Revenue Credit pursuant to this subsection (e) would be calculated as follows:

**Jobs Commitment for period January 2019 through December 2019: 40 Full-Time Jobs**

**Jobs Maintained for period January 2019 through December 2019: 30 Full-Time Jobs**

**Special Source Revenue Credit reduction for Fee Payment due January 2021:**

$$[40 - 30] / 40 = 10 / 40 = 25\%$$

$$25\% \times \$50,000.00 = \mathbf{\$12,500.00}$$

*Example No. 4.* As an additional example of how the Credits are adjusted when the Jobs Commitment is not met, and by way of example only, making the same assumptions as in Example No. 1 in Section 3.02(a), but also assuming the Company has received Credits on the Fee Payments



due in January 2020 (first year) and January 2021 (second year), and to receive the Credit on the Fee Payment due in January 2022 (third year), assume the Company has to have had employed in Full-Time Jobs an average of not less than fifty (50) during the twelve month period of January 2020 through December 2020 and the actual number of jobs satisfying the Jobs Commitment is 40, and the Special Source Revenue Credit to which the Company would otherwise be entitled for the Fee Payment due in January 2022 is \$25,000.00, then the reduction of the Special Source Revenue Credit pursuant to this subsection (e) would be calculated as follows:

**Jobs Commitment for period January 2020 through December 2020: 50 Full-Time Jobs**

**Jobs Maintained for period January 2020 through December 2020: 40 Full-Time Jobs**

**Special Source Revenue Credit reduction for Fee Payment due January 2022:**

$$[50 - 40] / 50 = 10 / 50 = 20\%$$

$$20\% \times \$25,000.00: \textbf{\$5,000.00}$$

(f) Notwithstanding any other provision of this Agreement, Company acknowledges and agrees that County's obligation to provide the Special Source Revenue Credits ends, and this Agreement is terminated, if the Company ceases operations. For purposes of this Section 3.02(f), "cease operations" means permanent closure of the facility. Company agrees that if this Agreement is terminated pursuant to this Section 3.02(f), that under no circumstance shall the County be required to refund or pay any monies to Company. Notwithstanding the foregoing, in no event shall the occurrence of the event described in this paragraph (f) constitute an Event of Default under this Agreement.

(g) Prior to reducing the Special Source Revenue Credits, as provided in Section 3.02(e), the County shall provide notice, in the manner provided in Section 6.05, to the Company of the proposed reduction and the County shall provide the Company the opportunity to provide additional information to the County to demonstrate compliance with the Jobs Commitment.

#### **ARTICLE IV TITLE TO INFRASTRUCTURE**

**Section 4.01 Transfer of Project.** The County hereby acknowledges that the Company may from time to time and in accordance with applicable law, sell, transfer, lease, convey, or grant the right to occupy and use the Project, in whole or in part, to others. No sale, lease, conveyance, or grant shall relieve the County from the County's obligations to provide the Special Source Revenue Credits to the Company's successor or assignee under this Agreement; *provided, however,* that (a) such assignee must continue to make Fee Payments pursuant to the Park Agreement in the same manner and to the same extent as required of the Company; and (b) the County consents to or ratifies the assignment of this Agreement by passage of a resolution by Council, with such consent to be granted in the sole discretion of the Council.

## **ARTICLE V DEFAULTS AND REMEDIES**

**Section 5.01 Events of Default.** If the County or Company shall fail duly and punctually to perform any covenant, condition, agreement or provision contained in this Agreement, including the failure of the Company to pay Fee Payments when due, which failure shall continue for a period of thirty (30) days after written notice by the non-breaching party specifying the failure and requesting that it be remedied is given via first-class mail, the County or Company (as the case may be) shall be in default under this Agreement (an "Event of Default"); *provided, however*, that no failure on the part of the Company to meet any level of the Jobs Commitment set forth in this Agreement shall constitute an Event of Default, and the sole remedies for any such failure shall be those remedies set forth in Section 3.02. Nothing in this section limits the County's rights to enforce the collection of Fee Payments pursuant to such methods and procedures as authorized by law.

**Section 5.02 Legal Proceedings by Company or County.** Upon the happening and continuance of an Event of Default, then and in every such case the Company or County (as the case may be) in their discretion may:

- (a) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its rights and require the breaching party to carry out any agreements with or for its benefit and to perform the breaching party's duties under the SSRC Law and this Agreement;
- (b) bring suit upon this Agreement;
- (c) exercise any and all rights and remedies provided by the applicable laws of the State; or
- (d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

**Section 5.03 Remedies Not Exclusive.** No remedy in this Agreement conferred upon or reserved to the Company or the County is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

**Section 5.04 Nonwaiver.** No delay or omission of the Company or the County to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein; and every power and remedy given by this Article V to the Company or the County may be exercised from time to time and as often as may be deemed expedient.

## **ARTICLE VI MISCELLANEOUS**

**Section 6.01 Successors and Assigns.** All the covenants, stipulations, promises, and agreements in this Agreement contained, by or on behalf of, and for the benefit of, the County, shall, to the extent permitted by law, bind and inure to the benefit of the successors of the County from time to time, and any officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County shall be transferred.

**Section 6.02 Provisions of Agreement for Sole Benefit of County and Company.** Except as in this Agreement otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any Person other than the County and the Company, any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

**Section 6.03 Severability.** In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, the illegality or invalidity shall not affect any other provision of this Agreement, and this Agreement and the Special Source Revenue Credits shall be construed and enforced as if the illegal or invalid provision had not been contained herein or therein.

**Section 6.04 No Liability for Personnel of County or Company.** No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any member, agent, or employee of the County or Council, or of the Company or any of its officers, employees, or agents in his individual capacity, and neither the members of Council nor any official executing this Agreement shall be liable personally on the Agreement or the Special Source Revenue Credits or be subject to any personal liability or accountability by reason of the issuance thereof.

**Section 6.05 Notices.** All notices, certificates, requests, or other communications under this Agreement shall be sufficiently given and shall be deemed given, unless otherwise required by this Agreement, when (i) delivered or (ii) sent electronically and confirmed by United States first-class registered mail, postage prepaid, addressed as follows:

(a) As to the County:

Lancaster County  
Attn: Steve Willis, County Administrator  
101 N. Main St. (29720)  
P.O. Box 1809 (29721-1809)  
Lancaster, SC  
Telephone: (803) 416-9300  
Fax: (803) 285-3361  
Email: [swillis@lancastercountysc.net](mailto:swillis@lancastercountysc.net)



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

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

(b) as to the Company:

Simpson Electric Company  
Attention: Danny Simpson, President  
8916 Crump Road  
Charlotte, NC 28273  
Email: danny@simpsonelectricnc.com

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

Womble Carlyle Sandridge & Rice, LLP  
Attention: Stephanie L. Yarbrough  
5 Exchange Street  
Charleston, SC 29401  
Telephone: (843) 720-4621  
Email: styarbrough@wcsr.com

The County and the Company may, by notice given as provided by this Section 6.05, designate any further or different address to which subsequent notices, certificates, requests or other communications shall be sent.

**Section 6.06 Applicable Law.** The laws of the State shall govern the construction of this Agreement.

**Section 6.07 Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument.

**Section 6.08 Amendments.** This Agreement may be amended only by written agreement of the parties hereto. The County hereby agrees that, to the extent allowable by law, any such amendment may be approved by passage of a resolution by Council.

**Section 6.09 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 6.10 Effective Date.** This Agreement shall become effective as of the date first written above.

**Section 6.11 Termination.** (a) The term of this Agreement shall be from the effective date of this Agreement until December 31, 2023 unless earlier terminated pursuant to Section 3.02(f) hereof or pursuant to the exercise by the Company of its option to terminate pursuant to this Section 6.11(b).

(b) From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least thirty (30) days' notice, the Company may terminate this Agreement with respect to the entire Project or any portion thereof. In the event the Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid.

**Section 6.12. Confidential Information.** (a) The Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all the Company's books and records pertaining to the Project. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by the Company to protect the Company's confidentiality and proprietary rights.

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

**[EXECUTION PAGES FOLLOW]**

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

**LANCASTER COUNTY, SOUTH CAROLINA**

By: \_\_\_\_\_  
Steve Harper, Chair, County Council

By: \_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

**ATTEST:**

By: \_\_\_\_\_  
Sherrie Simpson, Clerk to Council

[COMPANY SIGNATURES FOLLOW ON NEXT PAGE]



**SIMPSON ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Danny Simpson, individually**

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

# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

NOTICE OF PUBLIC  
HEARING  
Lancaster County Council  
A public hearing has been  
scheduled by the Lancaster  
County Council for Monday,  
October 23, 2017, at 6:00  
p.m. in the Lancaster  
County Council Chambers,  
second floor, County  
Administration Building,  
101 North Main Street,  
Lancaster, South Carolina,  
or at such other location  
in or around the complex  
posted at the main entrance.  
The purpose of the public  
hearing is to receive public  
comment on an ordinance  
titled "TO AUTHORIZE  
AND APPROVE THE  
EXECUTION AND  
DELIVERY OF A SPECIAL  
SOURCE REVENUE  
CREDIT AGREEMENT  
BY AND AMONG  
LANCASTER COUNTY,  
DANNY SIMPSON AND  
SIMPSON ELECTRIC  
COMPANY PROVIDING  
FOR SPECIAL SOURCE  
REVENUE CREDITS;  
TO EXPRESS THE  
INTENTION OF COUNCIL  
TO PROVIDE MONIES  
TO THE ECONOMIC  
DEVELOPMENT FUND;  
AND TO PROVIDE  
FOR OTHER MATTERS  
RELATED THERETO." At  
the public hearing and any  
adjournment of it, all inter-  
ested persons may be heard  
either in person or by their  
designee.  
287-120-1F-WCSR-Bill

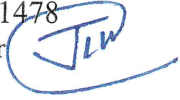
This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of *October 6, 2017.*

*Benny G. Gault*

Notary Public of South Carolina

My Commission Expires  
January 13, 2021

## Agenda Item Summary

Ordinance # / Resolution#: 2017-1478  
Contact Person / Sponsor: John Weaver   
Department: County Attorney  
Date Requested to be on Agenda: October 23, 2017

**Issue for Consideration:** Whether or not it is appropriate for Council to consider passage of this ordinance that amends for the first time the Avondale Development Agreement with Sinacori Builders.

**Points to Consider:** The development rights to this subdivision near the intersection of Calvin Hall Road and Harrisburg Road in Indian Land was transferred to D.R. Horton in early 2017. Following that transfer, D.R. Horton agreed to assume full financial responsibility (less a \$100K contribution from the Lancaster County School District) for the construction of an intersection roundabout rather than only an earlier \$225K contribution previously included as a part of the original Development Agreement. This 1<sup>st</sup> Amendment addresses that issue and the changes necessary to memorialize that new agreement.

**Funding and Liability Factors:** None

**Council Options:** Accept or reject the terms noted in the 1<sup>st</sup> Amendment of the Avondale Development Agreement.

**Recommendation:** This 1<sup>st</sup> Amendment has been presented to and received the unanimous recommendation of both the I&R Committee and the Administration Committee. On October 17, 2017, the Planning Commission recommended unanimously Council's approval and passage of the ordinance.



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

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.



**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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<b>STATE OF SOUTH CAROLINA</b>	)	<b>FIRST AMENDMENT TO THE</b>
	)	<b>DEVELOPMENT AGREEMENT</b>
<b>COUNTY OF LANCASTER</b>	)	<b>AVONDALE DEVELOPMENT</b>

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

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

This **DEVELOPMENT AGREEMENT** (the "Agreement") is made and entered into as of the 28<sup>th</sup> 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 (6<sup>th</sup>) 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:

DEVELOPER:

SINACORI BUILDERS, LLC,  
a North Carolina Limited Liability Company

Chelsea Gardner

By: Russell Sinacori

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: [Signature]  
Bob Bundy, Chair, County Council

Date: 12-9-2016

By: [Signature]  
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.

[Signature]  
First Witness Signs Again Here

Seal

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

[Signature]  
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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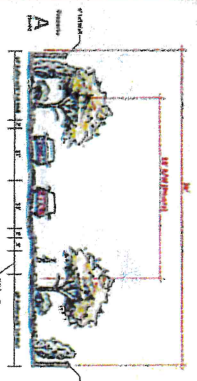
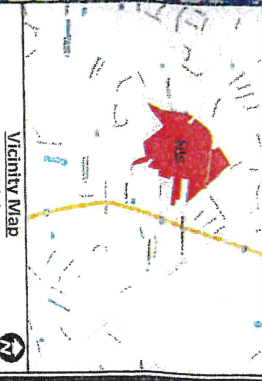
**Exhibit E**  
**Laws and Land Development Regulations**

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**






**Site Data**

**Permitted:**

open up 200, 201, 202 and 203, 204, 205 and 206, 207, 208 and 209, 210, 211 and 212, 213 and 214, 215 and 216, 217 and 218, 219 and 220, 221 and 222, 223 and 224, 225 and 226, 227 and 228, 229 and 230, 231 and 232, 233 and 234, 235 and 236, 237 and 238, 239 and 240, 241 and 242, 243 and 244, 245 and 246, 247 and 248, 249 and 250, 251 and 252, 253 and 254, 255 and 256, 257 and 258, 259 and 260, 261 and 262, 263 and 264, 265 and 266, 267 and 268, 269 and 270, 271 and 272, 273 and 274, 275 and 276, 277 and 278, 279 and 280, 281 and 282, 283 and 284, 285 and 286, 287 and 288, 289 and 290, 291 and 292, 293 and 294, 295 and 296, 297 and 298, 299 and 300, 301 and 302, 303 and 304, 305 and 306, 307 and 308, 309 and 310, 311 and 312, 313 and 314, 315 and 316, 317 and 318, 319 and 320, 321 and 322, 323 and 324, 325 and 326, 327 and 328, 329 and 330, 331 and 332, 333 and 334, 335 and 336, 337 and 338, 339 and 340, 341 and 342, 343 and 344, 345 and 346, 347 and 348, 349 and 350, 351 and 352, 353 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**SINACORI**  
-BUILDERS-  
One Beaumont  
Chattanooga, TN 37407

# Avondale

## Preliminary Master Plan

### PDD-27

PROJECT LOCATION:      TRACT:      COUNTY:      STATE:      DATE:      SCALE:      SHEET:      OF      TOTAL SHEETS

**LEGEND / EXPLANATION**

NO.	DATE	BY	DESCRIPTION
01	12-28-18	GW	Initial Design
02	12-28-18	GW	Final Design
03	12-28-18	GW	Final Design
04	12-28-18	GW	Final Design
05	12-28-18	GW	Final Design
06	12-28-18	GW	Final Design
07	12-28-18	GW	Final Design
08	12-28-18	GW	Final Design
09	12-28-18	GW	Final Design

**NOTES**

1. All dimensions are in feet.
2. All dimensions are to the centerline of the road.
3. All dimensions are to the centerline of the road.
4. All dimensions are to the centerline of the road.
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1 of 3



## Agenda Item Summary

Ordinance # / Resolution#: Resolution # 0967-R2017 and Ordinance # 2017-1479  
Contact Person / Sponsor: Jamie Gilbert  
Department: Economic Development  
Date Requested to be on Agenda: October 23, 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 301 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.

### **Council Options:**

Vote to approve or decline first reading of Resolution # 0967-R2017 and Ordinance # 2017-1479 which sets FILOT and SSRC conditions for Project Rhino.

### **Recommendation:**

Approve Resolution # 0967-R2017 and Ordinance # 2017-1479 for Project Rhino.

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

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## 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 mils, 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 (2<sup>nd</sup>) 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](mailto: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](mailto: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](mailto: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](mailto: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**

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Steve Harper, Chair, County Council

---

Larry Honeycutt, Secretary, County Council

ATTEST:

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Sherrie M. Simpson, Clerk to Council

**RHYNO PARTNERS BR HOLDINGS, LLC**

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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 27<sup>th</sup> 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 Reimbursable 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 Reimbursable 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

# The Lancaster News

701 North White Street  
PO Box 640  
Lancaster, SC 29721  
803-283-1133

## NOTICE OF PUBLIC HEARING

Lancaster County Council  
A public hearing has been scheduled by the Lancaster County Council for Monday, October 23, 2017, at 6:00 p.m. in the Lancaster County Council Chambers, second floor, County Administration Building, 101 North Main Street, Lancaster, South Carolina, or at such other location in or around the complex posted at the main entrance. The purpose of the public hearing is to receive public comment on an ordinance captioned "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; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO." At the public hearing and any adjournment of it, all interested persons may be heard in accordance with the rules of the Lancaster County Council.  
296-121-1S-Moore  
VanAllen-Bill

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of *October 8, 2017*.

*Benita G. Gumbbs*  
Notary Public of South Carolina

My Commission Expires  
January 13, 2021.



## Agenda Item Summary

Ordinance # / Resolution#: 2017 - 1480  
Contact Person / Sponsor: John Weaver  
Department: County Attorney  
Date Requested to be on Agenda: October 23, 2017

**Issue for Consideration:** Whether or not it is appropriate for Council to consider passage of this ordinance that removes from the Lancaster County/Chester County Multi County Park Agreement a  $\frac{3}{4}$  acre parcel previously owned by Haile Gold Mine/OceanaGold and included as a part of its massive real estate holding that is utilized in its mining operation.

**Points to Consider:** This parcel (TMS# 0118-00-060.00) containing 0.75 acres initially was purchased by the mining company, but has since been sold to a private third party. The parcel contains a residential dwelling that is occupied by the couple that purchased the property. The mining company has requested this parcel being removed.

**Funding and Liability Factors:** N/A

**Council Options:** Approve or reject this 5<sup>th</sup> Amendment to the gold mine MCP Agreement.

**Recommendation:** Staff and the I&R Committee recommends approval of the ordinance.

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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.

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**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	
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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**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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LANCASTER COUNTY BOARDS & COMMISSIONS  
APPLICATION FOR SERVICE



Name Miles Gardner County Council District District 4

Mailing Address P.O. Box 204 City/Zip Kershaw, SC

Street Address \_\_\_\_\_ Registered Voter yes X no \_\_\_\_\_

Tel. Number (home) \_\_\_\_\_ (work) \_\_\_\_\_ (other) \_\_\_\_\_

Email: milesdgardner@yahoo.com

Occupation teacher Place of employment retired

Address \_\_\_\_\_ Normal working hours \_\_\_\_\_  
(most meetings are scheduled after 6:00 pm - lack of attendance can be reason for replacement on a commission)

Name of Board or Commission in which you are interested

1st choice Historical Commission 2nd choice \_\_\_\_\_

3rd choice \_\_\_\_\_

Reason for interest

Hope to help foster an awareness of and appreciation for our great heritage -

Why do you feel you are qualified to serve on these boards? In addition, note education, areas of expertise, skills & interests. (continue on separate sheet if needed)

a half century of research & writing about local & family history

ancestors in Lancaster County since the early 1750's

Do you presently serve any State, County or Municipal Boards? NO If yes, list \_\_\_\_\_

Have you ever served on a county board? NO If yes, list \_\_\_\_\_

Additional pertinent information

Applicant's signature Miles Gardner Date 19 Sept. 2015

Receipt of application does not guarantee an appointment. Applicants will be notified of appointments by mail.

Return completed application to Debbie Hardin, Lancaster County Council Office, P.O. Box 1809, Lancaster, SC 29721  
Form Revised 1-28-13



LANCASTER COUNTY BOARDS & COMMISSIONS  
APPLICATION FOR SERVICE



Name Jill Knight County Council District \_\_\_\_\_

Mailing Address \_\_\_\_\_ City/Zip \_\_\_\_\_

Street Address \_\_\_\_\_ Registered Voter yes ☒ no \_\_\_\_\_

Tel. Number (home) \_\_\_\_\_ (work) \_\_\_\_\_ <sup>cell</sup>  
(other) \_\_\_\_\_

Email: jycsunshine@gmail.com

Occupation Tax Consultant Place of employment ADP, LLC

Address Work from home Normal working hours 7:30-4 (M-F)  
(most meetings are scheduled after 6:00 pm - lack of attendance can be reason for replacement on a commission)

Name of Board or Commission in which you are interested

1st choice Lancaster Historical Advisor 2nd choice \_\_\_\_\_

3rd choice \_\_\_\_\_

Reason for interest

*I am a lifelong Lancaster resident interested in genealogy and history, especially Lancaster history and preserving for future generations.*

Why do you feel you are qualified to serve on these boards? In addition, note education, areas of expertise, skills & interests. (continue on separate sheet if needed)

*I am very interested in preserving and researching history. I want to educate future generations so that our history isn't forgotten or lost.*

Do you presently serve any State, County or Municipal Boards? NO If yes, list \_\_\_\_\_

Have you ever served on a county board? NO If yes, list \_\_\_\_\_

Additional pertinent information

Applicant's signature Jill Knight Date 6-20-17  
Receipt of application does not guarantee an appointment. Applicants will be notified of appointments by mail.

Return completed application to Sherrie Simpson, Lancaster County Council Office, P.O. Box 1809, Lancaster, SC 29717

LANCASTER COUNTY BOARDS & COMMISSIONS  
APPLICATION FOR SERVICE



Name Stacy L. Roberts County Council District \_\_\_\_\_

Mailing Address \_\_\_\_\_ City/Zip \_\_\_\_\_

Street Address \_\_\_\_\_ Registered Voter yes ☒ no ☐

Tel. Number (home) \_\_\_\_\_ (work) \_\_\_\_\_ (other) \_\_\_\_\_

Email: Sroberts@lanastercounty.sc.net

Occupation Firefighter Place of employment Lancaster County

Address 111 Covenant Pl Lancaster, SC 29720 Normal working hours 8-5 Mon-Fri  
(most meetings are scheduled after 6:00 pm - lack of attendance can be reason for replacement on a commission)

Name of Board or Commission in which you are interested

1st choice Fire Code Appeals 2nd choice \_\_\_\_\_

3rd choice \_\_\_\_\_

Reason for interest

Why do you feel you are qualified to serve on these boards? In addition, note education, areas of expertise, skills & interests. (continue on separate sheet if needed)

Do you presently serve any State, County or Municipal Boards? yes If yes, list Fire Code Appeals

Have you ever served on a county board? yes If yes, list Fire Code Appeals

Additional pertinent information

Fire Commission

Applicant's signature Stacy L. Robert Date 10-16-17

Receipt of application does not guarantee an appointment. Applicants will be notified of appointments by mail.

Return completed application to Sherrie Simpson, Lancaster County Council Office, P.O. Box 1809, Lancaster, SC 29721

Form Revised 1-20-17

173

## 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

Date of Award: October 1, 2017

Amount of Award: \$96,956

Grant No.: M4CS-2018-HS-39-18

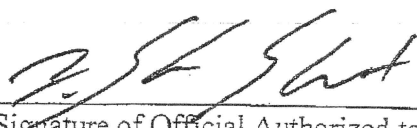
In accordance with the provisions of the Highway Safety Act of 1966, 72 Stat. 885, as amended, CFDA No. 20.616, and on the basis of the application for a grant award submitted to the Office of Highway Safety and Justice Programs, the S. C. Department of Public Safety hereby awards to the foregoing Subgrantee, 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.

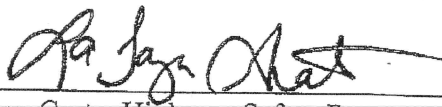
The grant shall become effective as of the date of the award, contingent upon the return of the original of this form to the Office of Highway Safety and Justice Programs, signed by the Subgrantee in the space provided below. This award must be accepted within 30 days, and such progress and other reports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

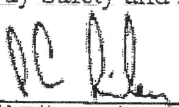
ACCEPTANCE FOR THE SUBGRANTEE

ACCEPTANCE FOR THE SFA

  
Signature of Official Authorized to Sign

K. Stuart

  
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 23, 2017

**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:**

Positive recommendation.

## Agenda Item Summary

Ordinance # / Resolution#:	Information Only Item
Contact Person / Sponsor:	Darren Player
Department:	Emergency Management/ Fire Rescue
Date Requested to be on Agenda:	October 23, 2017

**Issue for Consideration:**

Information on SC EMD Grant.

**Points to Consider:**

This is a 100% grant and is reported for information purposes.

It is a Supplemental Grant for emergency management communications equipment.

**Funding and Liability Factors:**

\$5,472 for the acquisition of three (3) desktop radio consoles and three (3) compatible cell phones.

Equipment will meet state standards.

**Council Options:**

No action is needed – this is for information only.

**Staff Recommendation:**

N/A

**Committee Recommendation:**

N/A



**SOUTH CAROLINA  
EMERGENCY MANAGEMENT DIVISION  
2779 Fish Hatchery Road  
West Columbia, SC 29172-2024**

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**FY2016 SUPPLEMENTAL GRANT AWARD**

**SUBRECIPIENT:** Lancaster County Emergency Management

**DATE:** October 5, 2017

**PROGRAM NAME:** 2016 LEMPG (Supplemental)

**CFDA No.:** 97.042

**GRANT PERIOD:** 10/01/2017 – 02/28/2018

**GRANT NO:** 16EMPG01

**TOTAL SUPPLEMENTAL AWARD: \$5,472**

---

The South Carolina Emergency Management Division, Office of the Adjutant General, under the Department of Homeland Security and South Carolina Law Enforcement Division Grant No. 16EMPG01, hereby awards Lancaster County a federal award in the amount shown above for submitted scope of work: ***Purchase of 3 iPhone units and 3 desk console units for the EOC*** This grant award is subject to the terms and conditions set forth in the initial application.

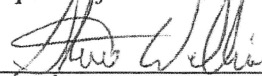
The grant shall become effective upon return of an original signed copy of this document by the *Subrecipient* designated official(s) to the South Carolina Emergency Management Division. This award must be accepted within sixty business (60) days from the above date. It is agreed that a financial reimbursement form and supporting documentation, as required by the South Carolina Emergency Management Division, must be submitted in accordance with the Terms and Conditions of the award.

The *Subrecipient*, hereby assures and certifies that it will comply with the regulations, policies, guidelines and requirements set forth in the Code of Federal Regulations (CFR) 44, 2 CFR 200, and the signed Standard Assurances, which are on file, as they relate to the application acceptance and use of federal funds.



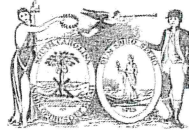
\_\_\_\_\_  
Kim Stenson, Director  
South Carolina Emergency Management Division  
Office of the Adjutant General

**Acceptance for the Subrecipient:**

  
\_\_\_\_\_  
County Administrator/Manager

Date: 10-13-17

The State of South Carolina  
Military Department



OFFICE OF THE ADJUTANT GENERAL

ROBERT E. LIVINGSTON, Jr.  
MAJOR GENERAL  
THE ADJUTANT GENERAL

October 5, 2017

Darren Player, Director  
Lancaster County Emergency Management  
P.O. Box 1809  
Lancaster, SC 29721

REF: 2016 LEMPG Supplemental Project Award

Dear Mr. Player:

Enclosed are two copies of the grant award allocating Lancaster County \$5,472 under the FY2016 Supplemental Local Emergency Management Performance Grant (LEMPG). *Please see award document for project details.* This supplemental project allocation must be matched with non-federal funds and purchases must be on the Authorized Equipment List (AEL) and eligible under the Emergency Management Performance Grant (EMPG) as found on the FEMA website <https://www.fema.gov/authorized-equipment-list>. Some counties have available match from previous reimbursements that may be utilized. Please return **one copy** of the award document signed by your authorized county official (administrator/county manager) no later than **October 31, 2017**. Retain the second copy of the award document for your files.

Lancaster County will be reimbursed for allowable grant expenditures upon receipt of a request for reimbursement with supporting documentation for expenditures. The grant must be completed no later than **February 28, 2018**. There will be no extensions to this grant.

Should you have any questions or need assistance, please contact Deborah Dawson, Accounting/Fiscal Analyst at (803) 737-8598 or your Regional Emergency Manager.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Stenson'.

Kim Stenson  
Director

KS: dd

Emergency Management Division  
2779 Fish Hatchery Road  
West Columbia, South Carolina 29172  
(803) 737-8500 • (803) 737-8570

# MEETINGS & FUNCTIONS – 2017

DAY/DATE	TIME	FUNCTION/LOCATION
Monday, October 23 <sup>rd</sup>	6:00 p.m.	Council Meeting Council Chambers, Administration Building
Monday, November 13 <sup>th</sup>	6:00 p.m.	Council Meeting Council Chambers, Administration Building
Tuesday, November 14 <sup>th</sup>	3:00 p.m.	Infrastructure & Regulation Committee Council Conference Room, Administration Building
Tuesday, November 14 <sup>th</sup>	5:00 p.m.	Public Safety Committee Council Conference Room, Administration Building
Thursday, November 16 <sup>th</sup>	6:00 p.m.	Administration Committee Council Conference Room, Administration Building
Monday, November 27 <sup>th</sup>	6:00 p.m.	Council Meeting Council Chambers, Administration Building

## LANCASTER COUNTY STANDING MEETINGS

The Tuesday following 1<sup>st</sup> Council meeting (most of the time it is the 2<sup>nd</sup> Tuesday)  
 ..... 5:00 p.m. ... Public Safety Committee  
 The Tuesday following the 1<sup>st</sup> Council meeting (most of the time it is the 2<sup>nd</sup> Tuesday)  
 ..... 3:00 p.m. ... Infrastructure and Regulation Committee  
 The Thursday following the 1<sup>st</sup> Council meeting (most of the time it is the 2<sup>nd</sup> Thursday)  
 ..... 6:00 p.m. ... Administration Committee  
 1<sup>st</sup> Thursday of each month ..... 7:00 p.m. ... Fire Commission, Covenant Street EOC Building  
 2<sup>nd</sup> Thursday of each month ..... 6:00 p.m. ... Zoning Appeals Board, County Council Chambers  
 2<sup>nd</sup> Tuesday of each month ..... 6:30 p.m. ... Recreation Commission, 260 S. Plantation  
 Last Tuesday of each month (Every other month – Beginning with Feb.) 6:00 p.m. Library Board, Carolinian Room, Library  
 2<sup>nd</sup> Wed (Jan/March/May/July/Sept/Nov) ..... 11:45 a.m. ... Health & Wellness Comm., various locations  
 2<sup>nd</sup> Tuesday ..... 6:00 p.m. ... Historical Commission, Library Conference Room  
 3<sup>rd</sup> Thursday of each month ..... 6:30 p.m. ... Community Relations Commission, County Council Chambers  
 1<sup>st</sup> Thursday of each month ..... 5:00 p.m. ... Planning Commission work session, County Council Chambers  
 3<sup>rd</sup> Tuesday of each month ..... 6:30 p.m. ... Planning Commission, County Council Chambers