

Lancaster County Council Regular Meeting Agenda

Monday, April 10, 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**

None at this time.

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 March 27, 2017 regular meeting – *pgs. 4-9*
- b. **3rd Reading of Ordinance 2017-1435 regarding amending Chapter 8 regarding Flood Damage Prevention of the new UDO**

Ordinance Title: An Ordinance To Amend Chapter 8, Natural Resources Protection, Section 8.17 Applicability, Subsection A. Flood Damage Prevention Of The Lancaster County Unified Development Ordinance, Relating To Insert The Effective Date For The Flood Insurance Study (FIS). – *Planning Commission recommended approval by a vote of 7-0. Passed 7-0 at the March 13, 2017 County Council Meeting. Passed 7-0 at the March 27, 2017 County Council Meeting. – Penelope Karagounis – pgs. 10-11*

8. **Non-Consent Agenda**

- a. **1st Reading Of Ordinance 2017-1436 regarding the rezoning of property owned by Joe D. Dillon**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Owned By Joe D. Dillon, Located At 4597 Old Hickory Road From GB, General Business District To LI, Light Industrial District – *Planning Commission recommended denial by a vote of 7-0. – Penelope Karagounis – pgs. 12-21*

b. **1st Reading of Ordinance 2017-1437 regarding the rezoning of property owned by Thomas Wheeler**

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone ± 21.146 Acre Portion Of Property Of Mr. Thomas Wheeler, Located At 2402 Flat Creek Road From GB, General Business District To RN, Rural Neighborhood District. – *Planning Commission recommended approval by a vote of 7-0. – Penelope Karagounis – pgs. 22-32*

c. **1st Reading of Ordinance 2017-1438 regarding amending the text of the UDO – Chapter 6**

Ordinance Title: An Ordinance To Amend The Text Of The Lancaster County Unified Development Ordinance, Chapter 6, Subdivision And Infrastructure Standards, Section 6.9.2A.2-Improvement Guarantees, Types Of Guarantees. – *Planning Commission recommended approval by a vote of 7-0. – Penelope Karagounis – pgs. 33-43*

d. **1st Reading of Ordinance 2017-1434 regarding Fee Agreement Among Lancaster County CompuCom Systems, Inc. And TKC Bailes Ridge Parkway, LLC**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Fee Agreement By And Among Lancaster County CompuCom Systems, Inc. And TKC Bailes Ridge Parkway, LLC, Providing For The Payment Of A Fee-In-Lieu Of Taxes And The Provision Of Special Source Revenue Credits; To Express The Intention Of Council To Provide Monies To The Economic Development Fund. – *John Weaver – pgs. 44-84*

e. **1st Reading of Ordinance 2017-1439 regarding Fee Agreement Among Lancaster County And Movement Mortgage, LLC And TKC CCII, LLC**

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of A Fee Agreement By And Among Lancaster County And Movement Mortgage, LLC And TKC CCII, LLC, Providing For The Payment Of A Fee-In-Lieu Of Taxes And The Provision Of Special Source Revenue Credits; To Express The Intention Of Council To Provide Monies To The Economic Development Fund. – *John Weaver – pgs. 85-126*

9. **Discussion and Action Items**

a. Nomination for re-appointment to the Board of Assessment Appeals

- District 6 – Nomination by Council Member Jack Estridge – *pg. 127*

b. Legal briefing on Ordinance 650 – *John Weaver*

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

None at this time.

11. **Miscellaneous Reports and Correspondence**

None at this time.

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

13. Executive Session

- a. *Economic Development Discussion: Project DON. SC Code 30-4-70(a)(5).***

14. Calendar of Events - pg. 128

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



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, March 27, 2017

Council Members present were Brian Carnes, Jack Estridge, Terry Graham, Steve Harper, Larry Honeycutt, Charlene McGriff and Billy Mosteller. Also present were Steve Willis, John Weaver, Sherrie Simpson, Chelsea Gardner, Penelope Karagounis, Veronica Thompson, 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 or by fax in accordance with the Freedom of Information Act: *Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, *Fort Mill Times*, Cable News 2, Channel 9 and the local Government Channel. The agenda was also posted in the lobby of the County Administration Building and on the county website the required length of time.

Call to Order regular meeting

Chairman Steve Harper called the regular meeting of Council to order at 5:59 p.m.

Welcome and Recognition/Pledge of Allegiance and Invocation

Chairman Steve Harper welcomed everyone to the meeting and announced the press notification was met. Billy Mosteller led the Pledge of Allegiance to the American Flag and delivered the invocation.

Approval of the agenda

Charlene McGriff moved to approve the agenda. Seconded by Larry Honeycutt. Passed 7-0.

Special Presentations

Mr. Chick of the Indian Land American Legion Post 250 presented the Traffic Safety Officer of the Year to Michael Brent Williams, the Outstanding Law Enforcement Officer of the Year to Torrey J. Murphy and the Community Service Officer of the Year to William Murphy.

Citizens Comments

Mark White, representing various Bridgemill residents, 226 East Main Street, Rock Hill, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Jeff Lamb, 4329 Rochard Lane, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Will Sperow, 7182 Harcourt Crossing, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Keith Hensel, 16309 Reynolds Drive, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

LynnMarie Kovach, 16294 Reynolds Drive, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Ed Washington, 18432 East Marbella Lane, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

John Pehta, 4288 Rochard Lane, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a). Mr. Pehta provided a handout attached as Schedule A.

John Immel, 9124 Drayton Lane, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Gary Walbrun, 7224 Harcourt Crossing, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Timothy J. Balvin, 4304 Rochard Lane, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Sara Phillips, 2045 Robert H. Kirk Road, Lancaster, SC, spoke regarding a Trap/Neuter/Return policy and a spay/neuter program.

Dan Shoemaker, 4291 Rochard Lane, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Ed McCormick, 17249 West Marbella Lane, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Jerry Holt, 3207 Kendall Trace, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Jordan Gratrix, 3036 Manchester Court, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Tom Bleich, 7176 Harcourt Crossing, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Mark Will, 6454 Chadwell Court, Indian Land, SC, spoke in opposition to the rezoning of the Wilkerson/McClancy property (agenda item 7a).

Non-Consent Agenda

3rd Reading of Ordinance 2017-1433 regarding rezoning of property of F.R. Wilkerson III/NBI Investments III, LLC

Ordinance Title: An Ordinance To Amend The Official Zoning Map Of Lancaster County So As To Rezone Property Of F.R. Wilkerson III/NBI Investments III LLC, Located At 182 Spice Road From LDR, Low Density Residential District To LI, Light Industrial District.

Brian Carnes moved to amend Ordinance 2017-1433 to allow Mr. Wilkerson to expand his business with his current zoning and allow him to sell that property to an equal or lesser zoned kind of business in the future. Seconded by Terry Graham. The motion to amend Ordinance 2017-1433 failed by a vote of 3 in favor of the amendment and 4 against. Terry Graham, Jack Estridge and Brian Carnes voted for amending the Ordinance and Steve Harper, Larry Honeycutt, Charlene McGriff and Billy Mosteller opposed the amendment.

Charlene McGriff moved to approve the 3rd reading of Ordinance 2017-1433. Seconded by Larry Honeycutt. Passed 5-2. Steve Harper, Charlene McGriff, Larry Honeycutt, Billy Mosteller and Terry Graham voted to approve the 3rd reading of the Ordinance and Brian Carnes and Jack Estridge were opposed.

Consent Agenda

Larry Honeycutt moved to approve the consent agenda item A. Seconded by Charlene McGriff. Passed 7-0.

A. Minutes of the following meetings:

- March 13, 2017 regular county council meeting

DRAFT

Continuation of Non-Consent Agenda

3rd Reading of Ordinance 2017-1429 regarding Fee In Lieu Of Tax and Incentive for Akzo Nobel Coatings Inc.

Ordinance Title: An Ordinance To Authorize The Execution And Delivery Of The First Amendment To The Fee In Lieu Of Tax And Incentive Agreement Between Lancaster County, South Carolina And Akzo Nobel Coatings Inc.

Billy Mosteller moved to approve the 3rd reading of Ordinance 2017-1429. Seconded by Charlene McGriff. Passed 7-0.

2nd Reading of Ordinance 2017-1435 regarding amending Chapter 8 regarding Flood Damage Prevention of the new UDO

Ordinance Title: An Ordinance To Amend Chapter 8, Natural Resources Protection, Section 8.17 Applicability, Subsection A. Flood Damage Prevention Of The Lancaster County Unified Development Ordinance, Relating To Insert The Effective Date For The Flood Insurance Study (FIS).

Larry Honeycutt moved to approve the 2nd reading of Ordinance 2017-1435. Seconded by Brian Carnes. Passed 7-0.

Discussion and Action Items

Committee Reports:

I&R Committee:

Larry Honeycutt reported that the I&R Committee's top priority is a new animal shelter. He explained that he toured the animal shelter in Chesterfield County. He also stated that land is needed for a new garage. The Committee also received an update on the pool resurfacing project and how the leftover money will be spent. The Committee moved the project to full Council with a favorable recommendation.

Public Safety Committee:

Brian Carnes reported that the Public Safety Committee discussed the handgun swap for the Sheriff's department, reviewed the SC Statewide Mutual Aid Agreement, and received an update on the Recruitment and Retention grant for the Fire Department. The Committee made a motion to use the EMS billing overage to build the new EMS station in Indian Land.

Administration Committee:

Charlene McGriff reported that the Administration Committee reviewed the budget and discussed the creation of a State Accommodations Tax Advisory Committee.

Steve Willis explained that state law requires an Accommodations Tax Advisory Committee once a certain threshold is met. Lancaster County will need an ordinance to create this Advisory Committee and then appointments will need to be made.

Reallocation of pool repair funds.

Steve Willis explained that the wall repairs at the Wylie Street Pool have come in under budget; therefore, Parks and Recreation requested to utilize the remaining funds that have already been budgeted for the project to complete other repairs at the site for safety updates. Larry Honeycutt moved to approve the funds for the additional pool repairs and pool upgrades, attached as Schedule B. Seconded by Brian Carnes. Passed 7-0.

Potential donation of land on Brooklyn Avenue for park space.

Steve Willis stated that the Promise Neighborhood group, in conjunction with the Lancaster County School District, would like to place a park on Brooklyn Avenue on land currently controlled by the Forfeited Land Commission. The transfer of ownership of the parcel of land will require an ordinance and a public hearing. Steve Willis stated he will initiate the process.

Allocation of funds from Panhandle Public Safety Fund for Indian Land Fire Department and Pleasant Valley Fire Department.

Steve Willis explained that the funding of equipment for the new pumper-tanker at Indian Land Fire Department and the new pumper-tanker at Pleasant Valley Fire Department will be part of the Fiscal Year 2017-2018 budget.

Terry Graham stated that he would like to see the accounting for the panhandle public safety fund, as he receives questions about that fund. The Finance Department stated they can provide that information to Terry Graham. Budget Analyst, Kimberly Hill, stated she will provide a special report regarding the public safety fund at the April Administration Committee meeting.

Steve Harper stated that he would like for the Public Safety Committee to come up with a plan for the remainder of the development agreement funds.

DRAFT

Miscellaneous Reports and Correspondence

Creation of State Accommodations Tax Advisory Committee.

Steve Harper stated this information was discussed during the Administration Committee report.

Adjournment

Larry Honeycutt moved to adjourn the meeting. Seconded by Billy Mosteller. Passed 7-0. The County Council meeting was adjourned at 7:37 p.m.

Respectfully Submitted:

Approved by Council, April 10, 2017

Sherrie Simpson
Clerk to Council

Larry Honeycutt, Secretary

STATE OF SOUTH CAROLINA

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COUNTY OF LANCASTER

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ORDINANCE NO. 2017-1435

~~Indicates Matter Stricken~~

Indicates New Matter

AN ORDINANCE

TO AMEND CHAPTER 8, NATURAL RESOURCES PROTECTION, SECTION 8.17 APPLICABILITY, SUBSECTION A. FLOOD DAMAGE PREVENTION OF THE LANCASTER COUNTY UNIFIED DEVELOPMENT ORDINANCE, RELATING TO INSERT THE EFFECTIVE DATE FOR THE FLOOD INSURANCE STUDY (FIS).

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

Section 1. Applicability

Section 8.1.7, Applicability of the Lancaster County Unified Development Ordinance is amended by adding:

Subsection A. Flood Damage Prevention.

These regulations shall apply to all areas of special flood hazard within the jurisdiction of Lancaster County as identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study dated ~~(insert date)~~ May 16, 2017 with the accompanying maps and other supporting data that are hereby adopted by reference and declared to be a part of this ordinance.
(Ord. No. 2016-1422, 11-28-16)

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 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 4. Effective Date.

This ordinance is effective upon third reading.

AND IT IS SO ORDAINED, 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:	March 13, 2017	Passed 7-0
Second Reading:	March 27, 2017	Passed 7-0
Third Reading:	April 10, 2017	

Agenda Item Summary

Ordinance # / Resolution# 2017-1436-(RZ-017-006)

Contact Person / Sponsor: Nick Cauthen

Department: Planning

Date Requested to be on Agenda: 4/10/17

Issue for Consideration:

*The applicant has petitioned Lancaster County to rezone \pm 2 acres of property from GB, General Business District to LI, Light Industrial District. The applicant is proposing to change the zoning in order to comply with the existing and future use.

*The property contains RV storage and an automotive shop and is located at 4597 Old Hickory Road near the intersection of Three Crow, South Wyck, and Old Hickory Rd.

Points to Consider:

*This property is designated as Rural Living on the Future Land Use map. Rural Living includes a variety of residential types, whose aim is to preserve open landscape, and traditional buildings, often with a mixture of residential and commercial uses that populate crossroads in countryside locations as defined by the *Lancaster County Comprehensive Plan 2014-2024*. This property was not deemed an industrial area by the future land use map.

*One of the main issues with the granting of this rezoning is that the property only contains 2 acres. The minimum lot size for a light industrial zoned parcel is 3 acres. Therefore, the granting of this rezoning would create a nonconforming lot regarding the dimensional requirements.

*There are a number of residential properties in the immediate area making an industrial zoned property less than ideal. Any uses allowed as a permitted use for a Light Industrial District can be used for this property if rezoned.

*This property was previously zoned B-3 and during the update process of the Unified Development ordinance this property was transitioned over to General Business instead of Light Industrial because of the potential of future negative impacts that an industrial district can pose to adjacent residential property owners. The current use of the property can remain but any additions or change in uses must comply with the requirements of the General Business zoning district.

Funding and Liability Factors:

N/A

Council Options:

To approve or deny the rezoning request.

Recommendation:

*It is the recommendation of the planning staff that the rezoning request be denied. This is primarily due to the number of residences in very close proximity, the lack of acreage that the subject property contains, and the fact that industrial does not comply with the Future Land Use map.

* At the Lancaster County Planning Commission meeting on Tuesday, March 21, 2017 the Commission voted to deny the rezoning application of Joe Dillon by a vote of (7-0).

*One adjacent property owner submitted a letter against the rezoning request.

*The complete staff report can be located on www.mylancastersc.org - Click on Planning Department and go to 2017 Agendas.

STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2017-1436

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 JOE D. DILLON, LOCATED AT 4597 OLD HICKORY ROAD FROM GB, GENERAL BUSINESS DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT.

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

Section 1. Findings and Determinations.

The Council finds and determines that:

(a) Joe Dillon applied to rezone property located at 4597 Old Hickory Road from GB, General Business District, to LI, Light Industrial District.

(b) On March 21, 2017, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (7-0), recommended denial of the rezoning.

Section 2. Rezoning.

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

Tax Map No. 0028-00-019.00

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, 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: 4-10-17

Second Reading: 4-24-17 (Tentative)

Third Reading: 5-8-17 (Tentative)

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PLANNING STAFF REPORT: RZ-017-006

I. FACTS

A. GENERAL INFORMATION

Proposal: This is a rezoning application of Joe Dillon to rezone ± 2 acres from GB, General Business District to LI, Light Industrial District. The applicant is proposing to correct the zoning to comply with existing and future use.

Property Location: The property is located at 4597 Old Hickory Road

Legal Description: TMS # 0028-00-019.00

Zoning Classification: Current: GB, General Business District

Voting District: District 1, Terry Graham

B. SITE INFORMATION

Site Description: The two acre property contains RV storage and an automotive shop. It is located on the west side of Old Hickory Rd. near the intersection of Three Crow, South Wyck, and Old Hickory Rd.

C. VICINITY DATA

Surrounding Conditions: The adjacent properties are zoned GB (General Business) and RN (Rural Neighborhood). The applicant owns the 16 acre tract to the north of the subject property. There is a machine shop and a cabinet shop located to the south of the subject property. There are multiple single family residences located across the road from the subject property.

D. EXHIBITS

1. Zoning Map
2. Aerial Map
3. Future Land Use Map
4. Adjacent Property Owner Letter

II. FINDINGS

CODE CONSIDERATIONS

GB, General Business District,

The General Business District is generally located on thoroughfares and provides opportunities for the provision of offices, services, and retail goods in proximity to generally auto-dependent, community neighborhoods. The regulations for this district are intended to accommodate the predominately auto-oriented pattern of existing

development while encouraging the transition to pedestrian-friendly, mixed-use areas that avoid strip commercial development.

LI, Light Industrial District,

The Light Industrial District is established for activities that can be operated in a relatively clean and quiet manner, and which will not be obnoxious to adjacent residential or business districts. This includes warehousing and wholesaling activities with limited contact with the general public. It is designed to prohibit most heavy industry, which should be properly segregated, and to prohibit any other use which would substantially interfere with the development of industrial establishments in the district. Limited opportunities for retail sales and services are also provided.

III. CONCLUSIONS

The facts and findings of this report show that the property is designated as Rural Living on the Future Land Use map. Rural Living includes a variety of residential types, whose aim is to preserve open landscape, and traditional buildings, often with a mixture of residential and commercial uses that populate crossroads in countryside locations as defined by the *Lancaster County Comprehensive Plan 2014-2024*. This property was not deemed an industrial area by the future land use map. One of the main issues with the granting of this rezoning is that the property only contains 2 acres. The minimum lot size for a light industrial zoned parcel is 3 acres. Therefore, the granting of this rezoning would create a nonconforming lot regarding the dimensional requirements. As stated in the vicinity data there are also a number of residential properties in the immediate area making an industrial zoned property less than ideal. Any uses allowed as a permitted use for a Light Industrial District can be used for this property if rezoned. This property was previously zoned B-3 and during the update process of the Unified Development ordinance this property was transitioned over to General Business instead of Light Industrial because of the potential of future negative impacts that an industrial district can pose to adjacent residential property owners. The current use of the property can remain but any additions or change in uses must comply with the requirements of the General Business zoning district.

IV. RECOMMENDATION:

Based on the information above the planning staff is recommending that the rezoning request for the property located at 4597 Old Hickory Road be **denied**. This is primarily due to the number of residences in very close proximity, the lack of acreage that the subject property contains, and the fact that industrial does not comply with the Future Land Use map.

V. RECOMMENDATION FROM PLANNING COMMISSION MEETING

Date of 1st Reading: 4-10-17

Date of 2nd Reading: 4-24-17

Date of 3rd Reading: 5-8-17

☐ Approved ☐ Denied ☐ No Action

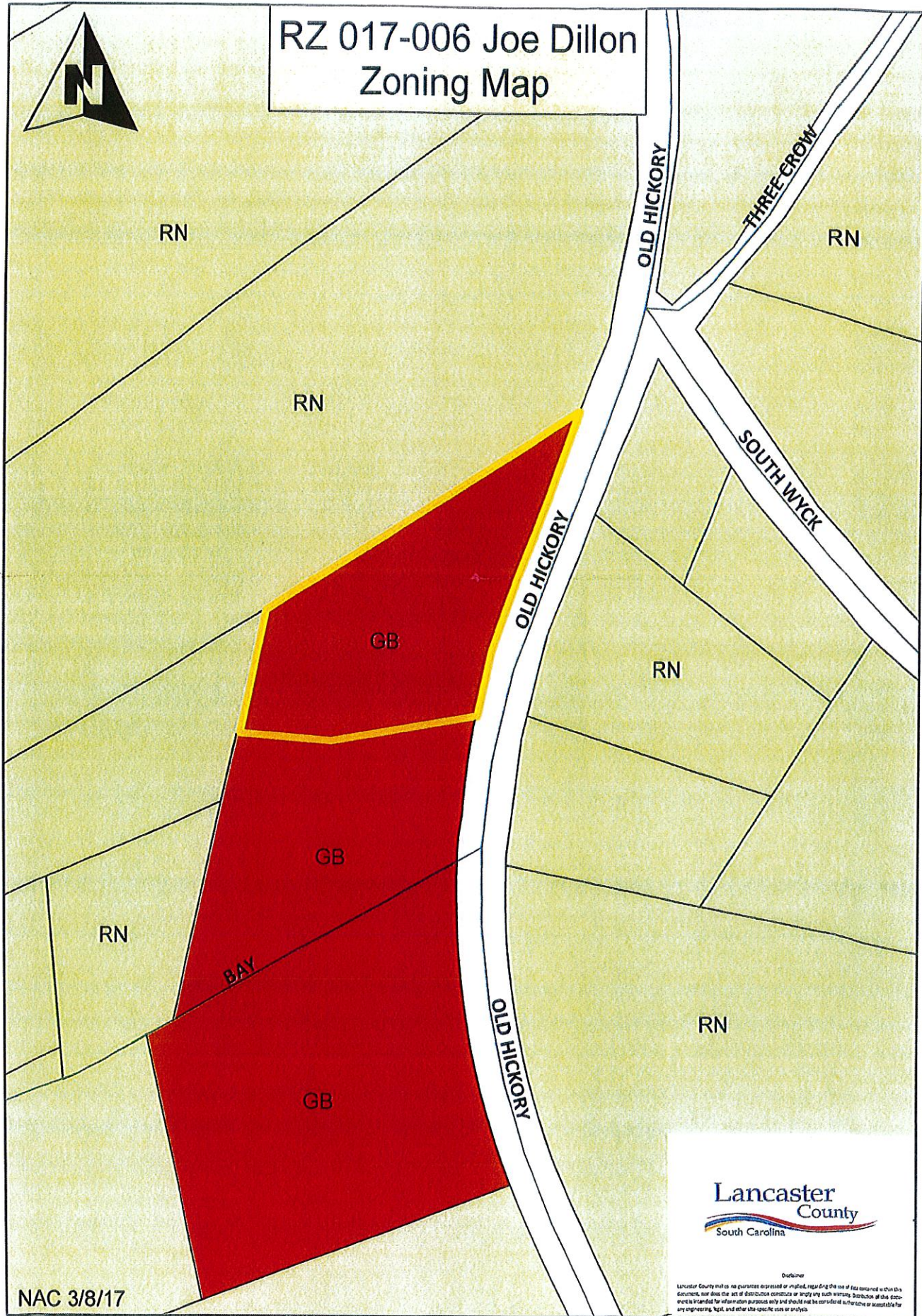
☐ Approved ☐ Denied ☐ No Action

☐ Approved ☐ Denied ☐ No Action

At the Lancaster County Planning Commission meeting on Tuesday, March 21, 2017 the Commission voted to **deny** the rezoning application of Joe Dillon by a vote of (7-0).



RZ 017-006 Joe Dillon Zoning Map



NAC 3/8/17

Lancaster
County
South Carolina

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RZ 017-006 Joe Dillon Aerial Map



Lancaster
County
South Carolina

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RZ 017-006 Joe Dillon
Future Land Use

Rural Living

OLD HICKORY

THREE CROW

SOUTH WYCK

OLD HICKORY

BAY

OLD HICKORY

Rural Living

Rural Living



NAC 3/8/17

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Response for rezoning request

Hello Planning Department,

Thank you so much for your letter to let us know about rezoning application.

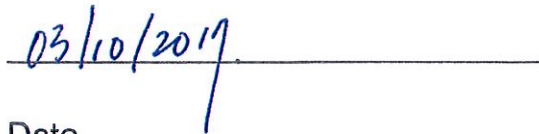
This is QiuHong Guan, I'm the property owner of 4574 Old Hickory Rd. We'd like to vote **against** rezoning application for 4597 Old Hickory Rd. Lancaster SC from GB to LI.

Any questions please contact Guan @ 704-808-0810.

Thank you

A handwritten signature in blue ink, appearing to read "QiuHong Guan", is written over a horizontal line.

QiuHong Guan

A handwritten date "03/10/2019" in blue ink is written over a horizontal line.

Date

Agenda Item Summary

Ordinance # / Resolution# RZ-017-005
Contact Person / Sponsor: Andy Rowe
Department: Planning
Date Requested to be on Agenda: 4/10/17

Issue for Consideration:

Rezoning application of Thomas Wheeler to rezone a ± 21.146 acre portion of a ± 34.393 acre tract of property from GB, General Business District, to RN, Rural Neighborhood District. The applicant wishes to rezone the southern portion of the property to build a home on the site.

Points to Consider:

The property has one adjacent parcel to the north zoned LDR, Low Density Residential District, and one adjacent parcel to the north zoned RN, Rural Neighborhood District. Adjacent parcels to the south and west are all zoned RN, Rural Neighborhood District. Adjacent parcels to the east are zoned RN, Rural Neighborhood District and INS, Institutional District. Majority if the property is surrounded by residential homes.

The Future Land Use Map identifies this property as Transitional. Transitional is a community type that is described as a walkable neighborhood that comprises a mix of uses including commercial and residential as defined by the *Lancaster County Comprehensive Plan 2014-2024*. However, the Future Land Use Map does not distinguish between residential and commercial uses for individual properties.

By rezoning the southern portion of the property from commercial to residential makes this property conform more to the area considering the high number of residential homes in the immediate area. The applicant will be required to provide a survey identifying the proposed subdivided ± 21.146 portion of property if County Council approves the rezoning request. The County will need the survey platted and recorded before 3rd reading.

Funding and Liability Factors:

N/A

Council Options:

To approve, deny, or table the rezoning request.

Recommendation:

The Planning Department recommended approval of this rezoning request. The rezoning request if approved would conform to the Future Land Use Map and would match the residentially zoned parcels surrounding the property.

At the Lancaster County Planning Commission meeting on Tuesday, March 21, 2017 the Commission voted to **approve** the rezoning application of Thomas Wheeler by a vote of (7-0). At the above referenced meeting several citizens spoke at the public hearing. Majority of the citizens did not have a problem with the applicant placing a home on the property.

STATE OF SOUTH CAROLINA

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COUNTY OF LANCASTER

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ORDINANCE NO. 2017-1437

AN ORDINANCE

TO AMEND THE OFFICIAL ZONING MAP OF LANCASTER COUNTY SO AS TO REZONE ± 21.146 ACRE PORTION OF PROPERTY OF MR. THOMAS WHEELER, LOCATED AT 2402 FLAT CREEK ROAD FROM GB, GENERAL BUSINESS 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) Mr. Thomas Wheeler applied to rezone ± 21.146 portion of property located at 2402 Flat Creek Road from GB, General Business District, to RN, Rural Neighborhood District.

(b) On March 21, 2017, the Lancaster County Planning Commission held a public hearing on the proposed rezoning and, by a vote of (7-0), recommended approval of the rezoning.

Section 2. Rezoning.

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

Tax Map No. Portion of 0080-00-094.00.

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, 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: 4-10-17

Second Reading: 4-24-17 (Tentative)

Third Reading: 5-8-17 (Tentative)

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PLANNING STAFF REPORT: RZ-017-005

I. Facts

A. General Information

Proposal: Rezoning application of Thomas Wheeler to rezone a \pm 21.146 portion of a \pm 34.393 acre tract of property from GB, General Business District, to RN, Rural Neighborhood District. The applicant states he wishes to rezone the southern portion of the property to place a home on the site.

Property Location: The property is located at 2402 Flat Creek Road in Lancaster County, SC.

Legal Description: Portion of Tax Map 80, Parcel 94.00

Zoning Classification: Current: GB, General Business District.

Voting District: District 5 – Steve Harper

B. Site Information

Site Description: The parcel is currently occupied by an abandoned house and utility building on the northern portion of the property and wooded to the rear of the property. A church borders the property to the east.

C. Vicinity Data

Surrounding Conditions: The property has one adjacent parcel to the north zoned LDR, Low Density Residential District, and one adjacent parcel to the north zoned RN, Rural Neighborhood District. Adjacent parcels to the south and west are all zoned RN, Rural Neighborhood District. Adjacent parcels to the east are zoned RN, Rural Neighborhood District and INS, Institutional District. Majority of the property is surrounded by residential homes.

D. Exhibits

1. Rezoning Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. Proposed Property Map
6. Tax Inquiry Sheet
7. UDO- Section: 2.3 - Districts
8. UDO- Section: 2.5.3 - Use Table

Date of 1st Reading: 4-10-17
__ Approved __ Denied __ No Action

Date of 2nd Reading: 4-24-17
__ Approved __ Denied __ No Action

Date of 3rd Reading: 5-8-17
Approved __ Denied __ No Action

II. Findings

Code Considerations:

2.3 DISTRICTS:

General Business District (GB)

The General Business District is generally located on thoroughfares and provides opportunities for the provision of offices, services, and retail goods in proximity to generally auto-dependent, community neighborhoods. The regulations for this district are intended to accommodate the predominately auto-oriented pattern of existing development while encouraging the transition to pedestrian-friendly, mixed-use areas that avoid strip commercial development.

Rural Neighborhood District (RN)

The Rural Neighborhood District is established to protect the residential character of communities and neighborhoods in the rural area at a density of 1.0 dwelling unit per acre. The district is intended to promote rural living, protect farmland, and to maintain the low density residential.

UNIFIED DEVELOPMENT ORDINANCE | Adopted 11.28.2016

III. Conclusions

The Future Land Use Map identifies this property as Transitional. Transitional is a community type that is described as a walkable neighborhood that comprises a mix of uses including commercial and residential as defined by the *Lancaster County Comprehensive Plan 2014-2024*. However, the Future Land Use Map does not distinguish between residential and commercial uses for individual properties. By rezoning the southern portion of the property from commercial to residential makes this property conform more to the area considering the high number of residential homes in the immediate area. The applicant will be required to provide a survey identifying the proposed subdivided ± 21.146 portion of property if County Council approves the rezoning request. The County will need the survey platted and recorded before 3rd reading.

IV. Recommendation

Based on the information above the planning staff is recommending that the rezoning request for the property located at 2402 Flat Creek Road be **approved**. This rezoning request if approved would conform to the Future Land Use Map and would match the residentially zoned parcels surrounding the property.

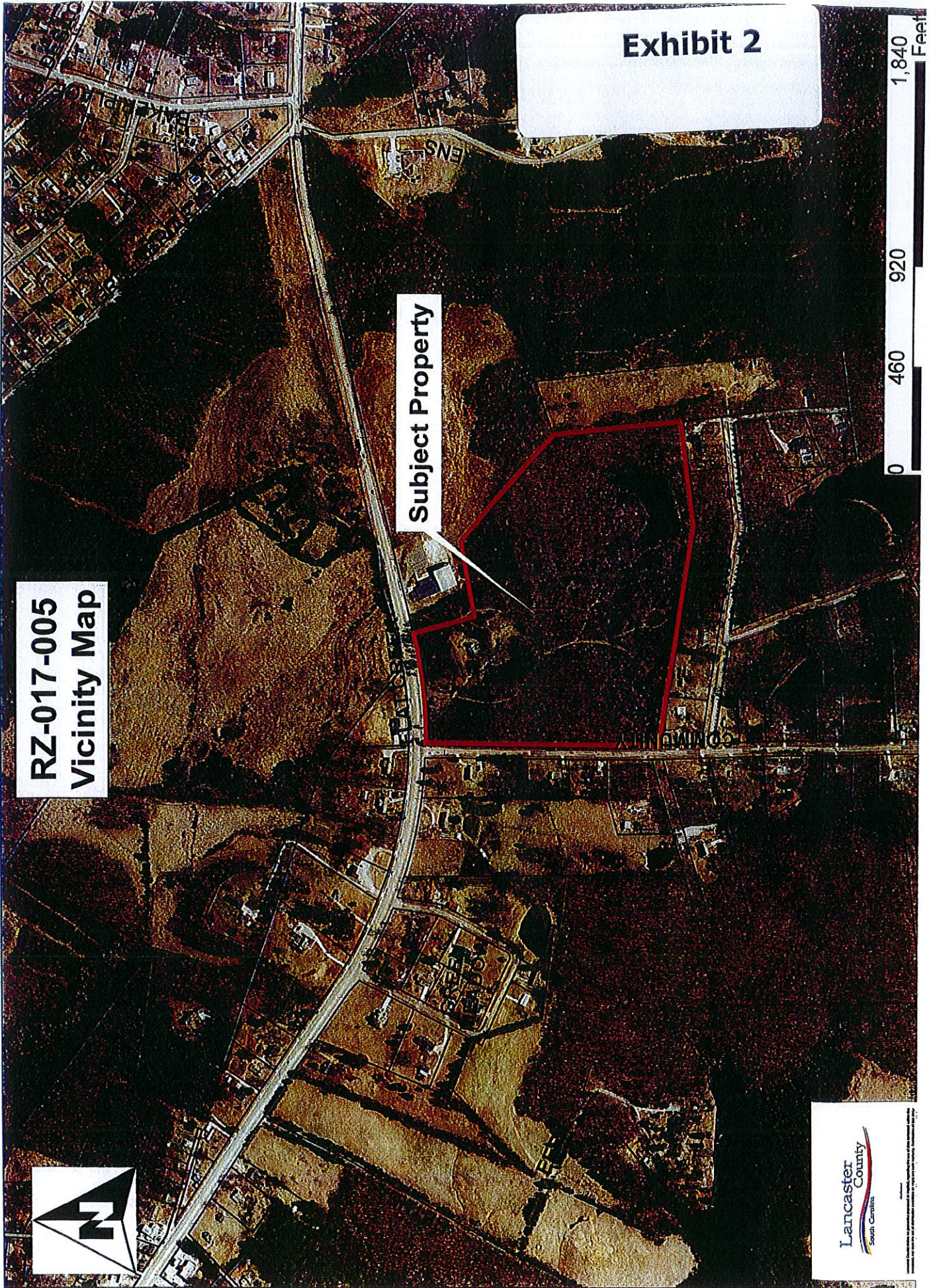
Date of 1st Reading: 4-10-17
__ Approved __ Denied __ No Action

Date of 2nd Reading: 4-24-17
__ Approved __ Denied __ No Action

Date of 3rd Reading: 5-8-17
Approved __ Denied __ No Action

V. Recommendation from Planning Commission Meeting:

At the Lancaster County Planning Commission meeting on Tuesday, March 21, 2017 the Commission voted to **approve** the rezoning application of Thomas Wheeler by a vote of (7-0). At the above referenced meeting several citizens spoke at the public hearing. Majority of the citizens did not have a problem with the applicant placing a home on the property.



**RZ-017-005
Vicinity Map**

Exhibit 2

Subject Property

0 460 920 1,840 Feet

Lancaster County
South Carolina

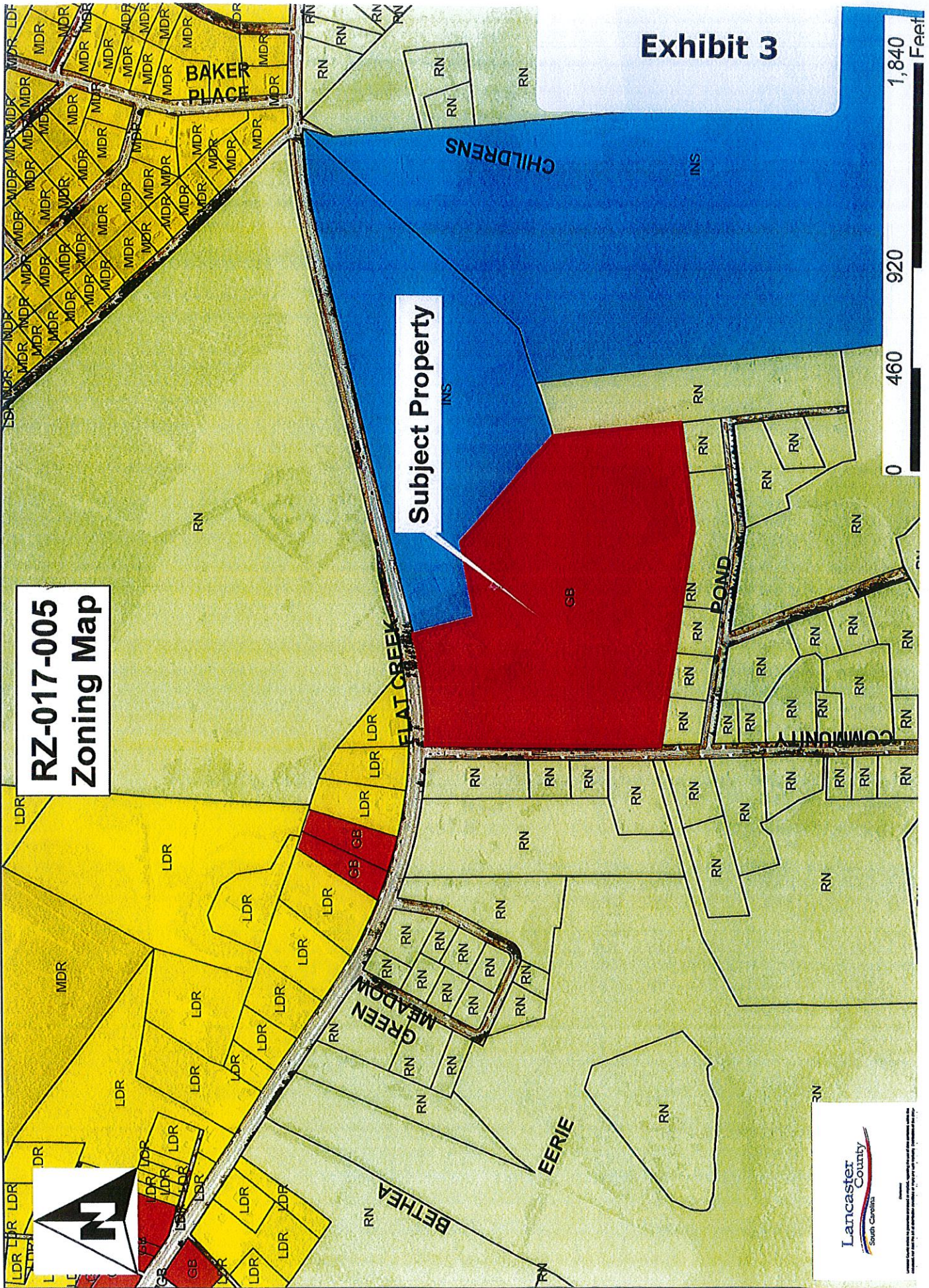


Exhibit 3

RZ-017-005
Zoning Map

Subject Property

Lancaster
County
South Carolina

RZ-017-005

Future Land Use Map

Subject Property

Exhibit 4



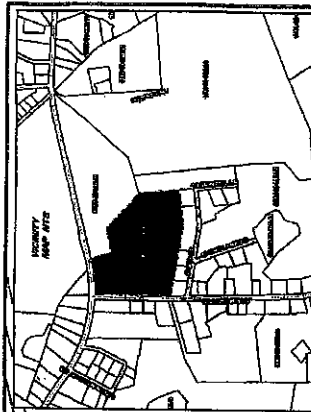


**RZ-017-005
Proposed Property Map**

**PROPOSED +/- 21.146 AC PORTION
TO BE REZONED TO RN**

Exhibit 5





Plat Of Property Of
**Thomas A. Wheeler &
 Katherine E. Wheeler**
 Located In
 Antioch Community
 3 Miles East Of
 Lancaster, South Carolina
 Lancaster County

Scale 1" = 300' RevDate 03/10/2017
 RevDate 02/19/2015

GRAPHIC SCALE



(IN FEET)

1 inch = 300 ft.

Survey By: J. C. Crumpler
 S.C. Reg. No. 6574
 207 Chesterfield Avenue
 Lancaster, South Carolina
 1-803-283-9818

NOT FOR
 RECORDING

THIS PROPERTY IS SUBJECT TO ALL EASEMENTS, RIGHT-OF-WAYS
 AND RESTRICTIVE COVENANTS OF RECORD.
 NEW SURVEY LINE ESTABLISHED MARCH 9, 2017 TO SHOW DIVISION
 BETWEEN TRACT 6A & 6B

LINE	LENGTH	BEARING
L1	42.85	N87°10'00"W
L2	33.58	N89°18'40"W
L3	112.40	N89°47'20"W
L4	32.12	N89°10'10"W
L5	174.50	N89°00'00"W
L6	40.19	N87°35'00"W
L7	499.74	N87°35'00"W
L8	78.60	N87°10'00"W
L9	1.45	S89°47'20"W
L10	33.31	S87°10'00"W
L11		

REMAINING PORTION OF
 TRACT 6B IS 34.39 AC.
 DEED BOOK 14 PAGE 354

TRACT 6B WANTS TO BE REOPENED TO
 IN (RURAL NEIGHBORHOOD)
 REAR SETBACK 20'
 REAR SETBACK 25'

NOTE: TRACT 6A REMAINS CB
 TRACT 6B WANTS TO BE REOPENED TO
 IN (RURAL NEIGHBORHOOD)
 REAR SETBACK 20'
 REAR SETBACK 25'

"I hereby state to the best of my knowledge,
 information, and belief, the survey shown hereon
 was made in accordance with the requirements of the
 Minimum Standards Manual for the Practice of Land
 Surveying in South Carolina, and meets or exceeds the
 requirements for a Class B survey as specified therein."

NOTE: This lot does not lie
 within any designated
 flood area and there
 are no encroachments
 or projections other
 than as shown on this
 plat.

DRAWN BY:	JCC	RevDate	02/19/2015
CHECKED BY:	JCC	DATE	03/09/2017
		TAX ID	0080-00-094.00
JOB NO.:	14-06-2	SHEET	1 of 1

David A. Wheeler

Agenda Item Summary

Ordinance # / Resolution# UDO-TA-017-004

Contact Person / Sponsor: Andy Rowe

Department: Planning

Date Requested to be on Agenda: 4-10-17

Issue for Consideration:

The following is a proposed text amendment to the Lancaster County Unified Development Ordinance by Lancaster County to amend the text of Chapter 6, Subdivision and Infrastructure Standards, Section 6.9.2A.2-Improvement Guarantees, Types of Guarantees.

Points to Consider:

The text amendment is to amend Chapter 6, Subdivision and Infrastructure Standards, Section 6.9.2A.2-Improvement Guarantees, Types of Guarantees. The proposed text amendment if adopted would allow residential and commercial developers to have banking relationships with institutions beyond 100 miles of Lancaster County.

Funding and Liability Factors:

Council Options:

To approve or deny the text request.

Recommendation:

The Planning Staff recommended that the text amendment be **approved** with the addition that all letter of credits be accepted from banks only within the United States, and letters of credit must contain the project name and phase. Staff would note that these two issues have caused confusion in the past and staff believes these issues should be resolved with this text amendment since we are adding text concerning letters of credit.

At the Lancaster County Planning Commission meeting on Tuesday, March 21, 2017 the Commission voted to **approve** the application by a vote of (7-0) with the condition that the word "located" on the top line and then through "and" just before payable be deleted. It should read payable to Lancaster County. The Planning Commission also added that the bank be a U.S. bank only and must contain the development or subdivision name and phase.

Proposed Text:

6.9.2 Guarantees

A. Types of Guarantees

2. A letter of credit duly executed by a U.S. bank payable to Lancaster County wherein the letter of credit contains the following, or similar, language: Drawings may also be presented to us by facsimile transmission to facsimile number xxx-xxx-xxxx (each such drawing, a "fax drawing"); provided, however, that a fax drawing will not be effectively presented until you confirm by telephone our receipt of such fax drawing by calling xxx-xxx-xxxx. If you present a fax drawing under this letter of credit, you do not need to present the original of any drawing documents. Such letters of credit must include the development or subdivision name and phase.

Proposed Text from Planning Commission:

6.9.2 Guarantees

A. Types of Guarantees

2a. A letter of credit duly executed by a **U.S. bank payable to Lancaster County** wherein the letter of credit contains the following, or similar, language: Drawings may also be presented to us by facsimile transmission to facsimile number xxx-xxx-xxxx (each such drawing, a “fax drawing”); provided, however, that a fax drawing will not be effectively presented until you confirm by telephone our receipt of such fax drawing by calling xxx-xxx-xxxx. If you present a fax drawing under this letter of credit, you do not need to present the original of any drawing documents. **Such letters of credit must include the development or subdivision name and phase.**

STATE OF SOUTH CAROLINA

)

COUNTY OF LANCASTER

)

ORDINANCE NO. 2017-1438

)

AN ORDINANCE

TO AMEND THE TEXT OF THE LANCASTER COUNTY UNIFIED DEVELOPMENT ORDINANCE, CHAPTER 6, SUBDIVISION AND INFRASTRUCTURE STANDARDS, SECTION 6.9.2A.2- IMPROVEMENT GUARANTEES, TYPES OF GUARANTEES.

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

6.9.2 Guarantees

A. Types of Guarantees

2. A letter of credit duly executed by a U.S. bank payable to Lancaster County wherein the letter of credit contains the following, or similar, language: Drawings may also be presented to us by facsimile transmission to facsimile number xxx-xxx-xxxx (each such drawing, a "fax drawing"); provided, however, that a fax drawing will not be effectively presented until you confirm by telephone our receipt of such fax drawing by calling xxx-xxx-xxxx. If you present a fax drawing under this letter of credit, you do not need to present the original of any drawing documents. Such letters of credit must include the development or subdivision name and phase.

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 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 4. Effective Date.

This ordinance is effective upon third reading.

AND IT IS SO ORDAINED, 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: April 10, 2017
Second Reading: April 24, 2017 (Tentative)
Third Reading: May 8, 2017 (Tentative)

PLANNING STAFF REPORT: UDO-TA-017-004

I. Facts:

A. General Information

The following is a proposed text amendment to the Lancaster County Unified Development Ordinance by Lancaster County to amend the text of Chapter 6, Subdivision and Infrastructure Standards, Section 6.9.2A.2- Improvement Guarantees, Types of Guarantees.

Current Text:

A letter of credit duly executed by a bank located within 100 miles of Lancaster County and payable to the county.

Proposed Text:

6.9.2 Guarantees

A. Types of Guarantees

2a. A letter of credit duly executed by a bank located beyond 100 miles of Lancaster County and payable to the County wherein the letter of credit contains the following, or similar, language: Drawings may also be presented to us by facsimile transmission to facsimile number xxx-xxx-xxxx (each such drawing, a "fax drawing"); provided, however, that a fax drawing will not be effectively presented until you confirm by telephone our receipt of such fax drawing by calling xxx-xxx-xxxx. If you present a fax drawing under this letter of credit, you do not need to present the original of any drawing documents.

B. Exhibits

1. Text Amendment Application
2. Chapter 6, Subdivision and Infrastructure Standards, Section 6.9.2A.2- Improvement Guarantees, Types of Guarantees.
3. Proposed Text

II. Findings:

The text amendment is to amend Chapter 6, Subdivision and Infrastructure Standards, Section 6.9.2A.2- Improvement Guarantees, Types of Guarantees. The proposed text amendment if adopted would allow residential and commercial developers to have banking relationships with institutions beyond 100 miles of Lancaster County.

Date of 1st Reading: 4-10-17
__ Approved __ Denied __ No Action

Date of 2nd Reading: 4-24-17
__ Approved __ Denied __ No Action

Date of 3rd Reading: 5-8-17
Approved __ Denied __ No Action

III. Recommendation:

By approving this text amendment, developers will be allowed to have flexibility in using banking institutions beyond 100 miles of Lancaster County. It is the recommendation of the Planning Staff that the above text amendment be **approved** with the addition that all letter of credits be accepted from banks only within the United States, and letters of credit must contain the project name and phase. Staff would note that these two issues have caused confusion in the past and staff believes these issues should be resolved with this text amendment since we are adding text concerning letters of credit.

IV. Recommendation from Planning Commission Meeting:

At the Lancaster County Planning Commission meeting on Tuesday, March 21, 2017 the Commission voted to **approve** the application by a vote of (7-0) with the condition that the word "located" on the top line and then through "and" just before payable be deleted. It should read payable to Lancaster County. The Planning Commission also added that the bank be a U.S. bank only and must contain the development or subdivision name and phase.

Proposed Text from Planning Commission:

6.9.2 Guarantees

A. Types of Guarantees

2a. A letter of credit duly executed by a **U.S. bank payable to Lancaster County** wherein the letter of credit contains the following, or similar, language: Drawings may also be presented to us by facsimile transmission to facsimile number xxx-xxx-xxxx (each such drawing, a "fax drawing"); provided, however, that a fax drawing will not be effectively presented until you confirm by telephone our receipt of such fax drawing by calling xxx-xxx-xxxx. If you present a fax drawing under this letter of credit, you do not need to present the original of any drawing documents. **Such letters of credit must include the development or subdivision name and phase.**

set forth in Chapter 6 of the UDO. However, the Planning Commission may alter this requirement if the developer demonstrates that the connection would be difficult to provide because of topographical reasons; and

- b. Where an undeveloped adjacent parcel exists, a stub out or cross-access easement for future stub out, shall be required to allow for connection to future parking and/or shared driveways; and
- c. Where a developed adjacent parcel exists, existing stub outs shall be utilized.

6.9 IMPROVEMENT GUARANTEES

6.9.1 GENERAL

- A. Before recordation of a final plat of a subdivision, the Administrator must be satisfied that all improvements required by this ordinance have been constructed.
- B. In lieu of the completion of the improvements required by this section, the County may enter into a financial guarantee agreement with the developer whereby the developer shall agree to complete all required improvements except water and sewer.
- C. The financial guarantee or surety will be subject to the following conditions:
 - 1. The guarantee shall be in an amount equal to 125 percent of the cost of construction of the outstanding improvements based on an estimate by the Administrator.
 - 2. The improvements will be completed within 12 months after approval of the financial guarantee and upon receipt of the corresponding security documents. The guarantee shall include with an automatic renewal, unless Lancaster County is notified in writing not less than 60 days prior to expiration that it will not renew. The financial guarantee may be amended by the Administrator, as required.

6.9.2 GUARANTEES

- A. **Types of Guarantees:** To secure this agreement, the developer shall provide, subject to the approval of the Administrator, either one or a combination of the following guarantees:
 - 1. The deposit of a certified check,
 - 2. A letter of credit duly executed by a bank located within 100 miles of Lancaster County and payable to the County, or,
 - 3. Another form of surety, together with an assignment of such security payable to Lancaster County, as approved by the Finance Director.
- B. **Default by Developer:** In the event such improvements are not completed as required by the ordinance, the County shall proceed with the work and hold the owner and the guarantor jointly responsible for the costs thereof by redeeming such portion of the financial guarantee as may be necessary to complete the required improvements.
- C. **Release of Financial Guarantee:** Upon completion of the improvements, the County shall release any assignment placed upon such account, certificate or other surety.

6.9.3 WARRANTY AGAINST DEFECTS

The developer shall be responsible for the maintenance and repair of all new streets, stormwater structures controls and other required utilities and warranty such improvements for a minimum of 2 years from the approval date of the final plat.

- A. **Significant Failures Reset Warranty Period:** If a significant failure of the warranted improvements occurs, including pavement, trench, or subgrade failure of streets, at any time

New Proposed Text:

6.9.2 Guarantees

A. Types of Guarantees

2a. A letter of credit duly executed by a **U.S. bank payable to Lancaster County** wherein the letter of credit contains the following, or similar, language: Drawings may also be presented to us by facsimile transmission to facsimile number xxx-xxx-xxxx (each such drawing, a “fax drawing”); provided, however, that a fax drawing will not be effectively presented until you confirm by telephone our receipt of such fax drawing by calling xxx-xxx-xxxx. If you present a fax drawing under this letter of credit, you do not need to present the original of any drawing documents. **Such letters of credit must include the development or subdivision name and phase.**

UDO-TA-017-004 – Proposed text amendment to the Lancaster County Unified Development Ordinance by Lancaster County to amend the text of Chapter 6, Subdivision and Infrastructure Standards, Section 6.9.2A.2 – Improvement Guarantees, Types of Guarantees.
Andy Rowe – Presented the report.

Jerry Holt – I missed the point then with the significance that this applied to the banks that were over 100 miles. What about those that are within the 100 mile radius?

Penelope Karagounis – This text amendment was brought to our attention by the County Council. There were some issues with some of the large developments that are outside of the 100 miles like Lennar and also the TDON development that they are working on subdivisions for. Their line of credits are more than 100 miles. We are still taking the ones that are within 100 miles. This is just allowing flexibility.

Jerry Holt – Why wouldn't we eliminate the beyond 100 miles and say that it is required of all banks issuing a letter of credit regardless of how far they are from Lancaster?

Steve Willis – This was brought by council and I don't really think council would have concern over the 100 mile limit. The big thing we were looking at is it's not that big a deal if we have to put somebody in a vehicle and drive to Charlotte or drive to Columbia and present the letters of credits which is what we had to do on most of the others. It is a problem if we have to put somebody on a plane and go to the Mercantile Bank of Spokane Washington. That is why we originally looked at a 100 mile limitation. Several developers said that with the banking relationships they have; that is problematic for them. We are simply looking at an alternative that would allow us to use electronic signatures and electronic presentations and work with the developers but still protect the County so we are not having to put people on planes to go present letters of credit. I would defer to the commission and the planning staff, a 100 miles is still fine and we'll put somebody in a car if we have too.

Charles Deese – I was a little bit concerned when I read the first line. It says a letter of credit duly executed by a bank located beyond a 100 miles of Lancaster County. The way that is written they've got to be at least 100 miles away from here before they can write it.

Penelope Karagounis – That is something that I can mention to Mr. Weaver since he came up with this.

Jerry Holt – We should have a single standard for the requirements for the letter of credit as long as they are within the United States, I can certainly understand that. But with that, regardless of the distance there should be one standard that we require.

Penelope Karagounis – I think what Mr. Weaver and County Council intended with this issue that has come up; currently in the UDO it says "within a 100 miles" so I think that is why he changed the within and just put beyond. Maybe he just needs to take out....

Steve Willis – I don't think anyone would have a problem with changing that.

Penelope Karagounis – That could be in a form of a motion with also what Andy has said regarding staff recommends also to add as an amendment because it was not on the documents that I received from County Council from Steve Harper that we need to have a bank that is from the US. It needs to state the name of the development and also the phase for each letter of credit. If you want to make that as a formal motion to delete as Mr. Barnett said, beyond a 100 miles of Lancaster County and then....

Jerry Holt – I would delete beginning with the word "located" on the top line and then through "and" just before "payable". It is executed by a bank payable to the County. Or payable to Lancaster County since we are taking that piece out.

Jim Barnett – Is that all one motion or are you just discussing it?

Penelope Karagounis – I think he is discussing it right now.

Jerry Holt – What were the other amendments?

Penelope Karagounis – What Mr. Rowe stated about the amendment. We received the text amendment from the County Attorney and County Council and it has this language. Staff would like to make the recommendation if you all agree to also amend that text by saying that it needs to be within a US Bank and also please state on the letter of credit the development name and phase that the letter of credit is being issued for.

Andy Rowe – Exactly.

Penelope Karagounis – If you all agree with that.

Charles Deese – Do I have a motion?

Jerry Holt made a motion to **approve** with the condition that as displayed we remove the words beginning with located after bank on the first line of the slide and then through the and on the second line where it picks up again payable; further that we add the conditions that were recommended by the Planning staff that it directs that it must be a bank that is located in the US. Also, the letter of credit specify the name of the development and the phase that the letter of credit is being issued for. Jim Barnett seconded the motion.

Penelope Karagounis – Our issue is that they are referring to letter of credit numbers so we have to look and try and figure it out. If it is on the front page and states that it is from the Bridgemill subdivision Phase 1, we know as each development gets closed out we can close those letter of credits and return their money back for each phase that has been built out. That is the issue that the planners are having, the banks are giving them numbers and they are not specifically stating the subdivision name and what phase.

Jerry Holt – The letter of credit needs to contain the information regarding the development or the subdivision name and the project and the phase. Worded such that it matches the planning department, so you can tweak whatever it needs to say before it goes to the council.

Penelope Karagounis – Basically what Mr. Rowe had at the end of his staff report is what we are going to be adding for those two additions. All letter of credits be accepted from banks only within the United States, and letters of credit must contain the project name and phase.

Jerry Holt – Ok, so then my motion includes the proposed additions; Jim Barnett seconded the motion.

Charles Deese – The motion is to start with “located” on the first line of 2.A down to not including the word payable (delete) and in its place add “a bank in the United States of America”. Also add to that the amendments presented by the planning department.

VOTE: 7 AFFIRMATIVE 0 NEGATIVE MOTION CARRIED

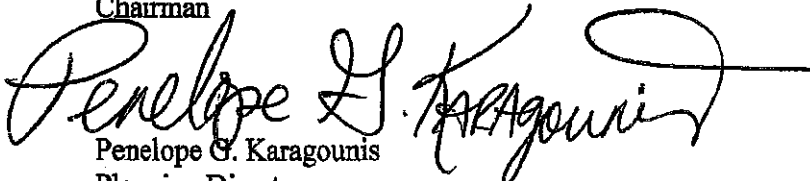
Penelope Karagounis – It will go to County Council probably on April 10, 2017.

Jim Barnett made a motion to adjourn and Rosa Sansbury seconded the motion.

VOTE: UNANIMOUS MOTION CARRIED

Respectfully Submitted,

Charles Deese
Chairman


Penelope G. Karagounis
Planning Director

Agenda Item Summary

Ordinance # / Resolution#: 2017 - 1434
Contact Person / Sponsor: Jamie Gilbert / John Weaver
Department: Economic Development / County Attorney
Date Requested to be on Agenda: County Council – April 10, 2017

JLW

Issue for Consideration: Whether or not it is appropriate for County Council to consider the passage of this ordinance that authorizes a Fee Agreement between the county and Compucom Systems, Inc. as Sponsor and TKC Bailes Ridge Parkway, LLC, a Sponsor Affiliate?.

Points to Consider: On September 26, 2016, Council approved Resolution No. 0934 – R2016, an Inducement Resolution (attached) that committed Lancaster County to a FILOT with Project 2016-5 (Compucom) that included, among other things:

- a. An investment of at least Thirty Six Million (\$36,000,000.00) Dollars;
- b. At least seven hundred (700) new full-time jobs;
- c. An initial average wage of \$17.47;
- d. a seven (7) year Investment Period
- e. A thirty (30) year Fee Agreement;
- f. An initial Special Source Revenue Credit for five (5) consecutive years equal to fifty (50%) of the FILOT payments.

The ordinance being considered by Council formalizes, memorializes and expands the terms and conditions outlined in the Inducement Resolution.

Funding and Liability Factors: N/A

Council Options: Approve or reject the ordinance.

Recommendation: The Director of Economic Development recommends Council's approval of the Ordinance and the Fee Agreement.

STATE OF SOUTH CAROLINA

)

)

COUNTY OF LANCASTER

)

RESOLUTION NO. 0934-R2016

A RESOLUTION

TO STATE THE COMMITMENT OF LANCASTER COUNTY TO ENTER INTO A FEE AGREEMENT WITH PROJECT 2016-5, AND/OR ITS DESIGNEE OR NOMINEE; TO PROVIDE THE GENERAL TERMS OF THE FEE AGREEMENT INCLUDING THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO IDENTIFY THE PROJECT FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT; TO STATE THE COMMITMENT OF LANCASTER COUNTY TO PLACE PROJECT PROPERTY IN A MULTI-COUNTY PARK; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

WHEREAS, Lancaster County, South Carolina (the "County"), 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 manpower, 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, Project 2016-5, 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 (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 \$36,000,000 and the creation of at least 700 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 "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, the County intends by this Resolution to commit itself to: (i) enter into a negotiated fee-in-lieu of tax agreement with the Company under the Act; (ii) provide for SSRCS against the FILOT Payments to be made by the Company in connection with the foregoing fee-in-lieu of tax arrangements; and (iii) locate the Project in an MCP Park.

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

1. The adoption of this Resolution is an official action by the County Council to identify, reflect and induce the Project under the Act. For purposes of the Act, this Resolution is an "Inducement Resolution." For purposes of Section 12-44-110 of the Act, this Resolution constitutes preliminary approval by the County prior to the execution of a fee agreement.

2. The County commits to enter into a negotiated FILOT arrangement with the Company for the Project, the terms of which shall be set forth in a Fee Agreement in form and manner satisfactory to the County and the Company containing substantially the following terms:

- a. an investment period of seven (7) years (the "Investment Period"); and
- b. the Company's commitment to invest at least thirty-six million dollars (\$36,000,000.00) in economic development property for the Project, not later than the end of the Investment Period (the "Investment Commitment"); and
- c. the Company's commitment to create, not later than the earlier of either the fifth year following the issuance of an occupancy permit for the main building of the Project or the end of the Investment Period, and thereafter to maintain for as long as the Company is receiving a special source revenue credit, at least seven hundred (700) new full-time jobs (*i.e.*, at least thirty (30) hours per week), with health care benefits and an hourly wage rate not less than the County's average hourly wage rate as published by the South Carolina Department of Revenue (the "Jobs Commitment"). The initial average hourly wage rate is seventeen dollars and forty-seven cents (\$17.47) and will be adjusted periodically beginning in year six of the Fee Agreement. The Company and County will agree upon the number of new full-time jobs that must be created in each year prior to the year in which the seven hundred (700) new full-time jobs must be created and the annual number is included in the Jobs Commitment; and
- d. calculation of FILOT Payments using an assessment ratio of six percent (6%) and a fixed millage rate of 301.1 mills (the millage rate applicable as of June 30, 2016) for the entire term of the Fee Agreement; and
- e. a term of thirty (30) years for the Fee Agreement and for each phase of the Project; and

- f. a special source revenue credit equal to fifty percent (50%) of the FILOT Payments for five (5) consecutive years beginning not later than the fifth year of the Investment Period and a special source revenue credit equal to twenty-five percent (25%) of the FILOT Payments for five (5) consecutive years beginning in the year immediately following the year in which the fifty percent (50%) special source revenue credit ends. If, in the event Company were to add, at a minimum, nine hundred (900) full-time jobs with health-care benefits and an hourly wage rate not less than the County's average hourly wage rate as stated above by the end of the fifth year of the Investment Period, then the County agrees to increase the applicable special source revenue credit beginning in the sixth year of the Investment Period from twenty-five percent (25%) to fifty percent (50%) for a period of five (5) consecutive years. In any year in which the Company fails to meet the Jobs Commitment, the annual special source revenue credit shall be reduced in the same proportion that the Company failed to meet the Jobs Commitment; and
- g. for year eleven of the Fee Agreement, and for each year thereafter, the Company must maintain an investment in economic development property of not less than eighteen million dollars (\$18,000,000.00) and an employment base of at least three hundred fifty (350) full-time jobs (*i.e.*, at least thirty (30) hours per week), with health care benefits and an hourly wage rate not less than the County's average hourly wage rate as published by the South Carolina Department of Revenue. Consequences for failing to maintain the investment and jobs level shall be set in the Fee Agreement; and
- h. 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. 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 same period that the Fee Agreement is effective.

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

(B) As used in this Section 4, "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 written evidence of the grants or assistance when approved.

5. Council's commitments and agreements contained in Sections 3 and 4 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.

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

7. 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.

8. 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.

9. This Resolution takes effect upon its adoption.

AND IT IS SO RESOLVED

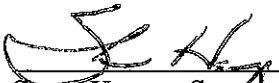
Dated this 26 day of September, 2016.

LANCASTER COUNTY, SOUTH CAROLINA

[SEAL]



Bob Bundy, Chair, County Council



Steve Harper, Secretary, County Council

Attest:



Debbie C. Hardin, Clerk to Council

STATE OF SOUTH CAROLINA

)

COUNTY OF LANCASTER

)

ORDINANCE NO. 2017-1434

)

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND AMONG LANCASTER COUNTY COMPUCOM SYSTEMS, INC. AND TKC BAILES RIDGE PARKWAY, LLC, PROVIDING FOR THE PAYMENT OF A FEE-IN-LIEU OF TAXES AND THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO EXPRESS THE INTENTION OF COUNCIL TO PROVIDE MONIES TO THE ECONOMIC DEVELOPMENT FUND.

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

Section 1. Findings.

The Lancaster County Council finds that:

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

(b) the County is authorized by Sections 4-1-175 and 4-29-68 of the Code, as amended, and Section 12-44-70 of the Act to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

(c) CompuCom Systems, Inc., a Delaware corporation (the "Sponsor"), is considering investing, through itself and/or one or more existing or to be formed affiliated entities and/or one or more unrelated parties, including TKC Bailes Ridge Parkway, LLC, a North Carolina limited liability company (the "Sponsor Affiliate"), in personal property and certain real estate improvements located in the County which would constitute a project within the meaning of the Act and which are eligible for inclusion as economic development property, the cost of which is estimated to be at least Thirty Six Million Dollars (\$36,000,000.00) over seven (7) years (the "Project");

(d) pursuant to Resolution No. 0934-R2016, adopted September 26, 2016, the Council approved an Inducement Resolution providing for, among other things, the agreement of the County to enter into a fee-in-lieu of tax incentive with the Sponsor and the provision of special source revenue credits;

(e) the Sponsor and Sponsor Affiliate have caused to be prepared and presented to the Council the form of the Fee Agreement by and among the County, the Sponsor and the Sponsor Affiliate (the "Fee Agreement"), which provides, generally, for fee-in-lieu of tax payments utilizing a six percent (6%) assessment ratio and fixed millage rate as of June 30, 2016 (which is understood to be 301.1 mills) for a period of thirty (30) years for the Project or each component thereof placed in service during the initial investment period and any investment period extension to which the County, the Sponsor and the Sponsor Affiliate agree, and for special source revenue credits equal to fifty percent (50%) of the fee-in-lieu of tax payments for Years One through Five and twenty-five percent (25%) for Years Six through Ten; and

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

Section 2. Approval of Fee Agreement.

Subject to the provisions of Section 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 Sponsor Affiliate to expand or locate an industrial facility in the State, the Fee Agreement is hereby authorized, ratified, and approved.

Section 3. Statutory Findings.

Council makes the following additional findings:

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

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

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

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

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

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

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

Section 4. Approval and Execution of Fee Agreement.

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

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

Section 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 Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee 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.

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:	April 10, 2017	
Second Reading:	April 24, 2017	Tentative
Public Hearing:	May 8, 2017	Tentative
Third Reading:	May 8, 2017	Tentative

Exhibit A to Ordinance No. 2017-1434

Fee Agreement

Lancaster County, CompuCom Systems, Inc. and TKC Bailes Ridge Parkway, LLC

See attached.

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FEE AGREEMENT

by and among

LANCASTER COUNTY, SOUTH CAROLINA,

COMPUCOM SYSTEMS, INC.

and

TKC BAILES RIDGE PARKWAY, LLC

Dated as of May 8, 2017

FEE AGREEMENT

This FEE AGREEMENT is dated as of May 22, 2017, by and among Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, CompuCom Systems, Inc., a Delaware corporation ("Sponsor"), and TKC Bailes Ridge Parkway, LLC, a North Carolina limited liability company ("Sponsor Affiliate") (collectively, Sponsor and Sponsor Affiliate are the "Companies").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (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 workforce, 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; 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 locate certain of their business operations in the County (the "Project"); and

WHEREAS, the Companies anticipate that the Project will result in an investment of Thirty-Six Million Dollars (\$36,000,000.00) in the County and the creation of at least seven hundred (700) new, full-time jobs; and

WHEREAS, the County Council approved on September 26, 2016 Resolution No. 0934-R2016 (the "Inducement Resolution"), an 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 certain operations 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 encompass the terms surrounding the Project and allowing the Companies to make FILOT payments pursuant to the Act; and

WHEREAS, it is presently anticipated, but not required, that Sponsor Affiliate 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, it is presently anticipated, but not required, that Sponsor will hereafter own, that portion of the Project composed of personal property now or hereafter located on the Land; and

WHEREAS, for the Project, the parties have determined that Sponsor is a Project Sponsor, and that 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 One Dollar (\$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; Summary Agreement.

(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:

CompuCom Systems, Inc., a Delaware corporation
TKC Bailes Ridge Parkway, LLC, a North Carolina limited liability
company
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:

Portion of Parcel Id. 0007-00-025.00
Old Lancaster Highway
Indian Land, SC 29707

3. Minimum investment agreed upon: \$36,000,000.00

4. Length and term of this Agreement: Thirty (30) years for each annual increment of investment in the Project during the Investment Period.
5. Assessment ratio applicable for each year of this Agreement: 6%, except as otherwise provided in the Agreement
6. Millage rate applicable for each year of this Agreement: 301.1, the millage rate in effect on June 30, 2016, 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 provided for the qualifying Economic Development Property in amounts equal to fifty percent (50%) of the Negotiated FILOT for years one through five (beginning in the year in which such portion of the Project is placed in service, but not later than the fifth year of the Investment Period) and twenty-five (25%) of the Negotiated FILOT for years six through ten. Notwithstanding the foregoing, in the event that the Companies create, collectively with any Co-Investors, at least 900 (instead of the 700 contained in the Jobs Commitment) new, full-time jobs (*i.e.*, at least thirty (30) hours per week), with health care benefits and in compliance with the Wage Requirements prior to the end of the fifth year of the Investment Period, then the twenty-five percent (25%) Special Source Revenue Credits is increased to fifty percent (50%).
 - (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 hereof 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, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof.

“Affiliate” shall mean any Person directly or indirectly controlling, controlled by, or under common control with such other Person. 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, 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 or by the Act, and dated as of May 22, 2017.

“Co-Investors” shall mean the Companies, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Act, any Affiliate of the Companies or of any such other Sponsor or Sponsor Affiliate, 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, or providing funds for, the Project. The Companies shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Companies and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by any such Sponsor, Sponsor Affiliate, or other Co-Investor, comply with any additional notice requirements, or other applicable provisions, of the Act. As of the original execution and delivery of this Agreement, the Companies are the only Co-Investors.

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

“Companies” shall mean Sponsor and Sponsor Affiliate, collectively.

“Company” shall mean each of Sponsor and Sponsor Affiliate.

“Confidential Information” shall have the meaning set forth in Section 4.02(d) hereof.

“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.

“Equipment” shall mean all machinery, equipment, furnishings, and other personal property acquired by a Company or any Co-Investor 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) property acquired or constructed by a Company or any Co-Investor during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; or (b) modifications which constitute an expansion of Existing Property.

“Filings” shall have the meaning set forth in Section 4.02(c) hereof.

“FILOT” shall mean the fee-in-lieu of taxes, which a Company or any Co-Investor is obligated to pay to the County pursuant to Section 5.01 hereof.

“FILOT Payments” shall mean the payments to be made by any Company or Co-Investor to Section 5.01 hereof.

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

“Indemnified Party” shall have the meaning ascribed to it in Section 8.03 hereof.

“Investment Commitment” shall mean the agreement and commitment of the Companies, together with any Co-Investors, to make investments with respect to the Project as set forth in Section 4.01(a) hereof.

“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 seven 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 agreement and commitment of the Companies, together with any Co-Investors, to create and maintain New Full-Time Jobs with respect to the Project as set forth in Section 4.01(b) hereof.

“Land” shall mean the real estate upon which the Project is to be located, as described in Exhibit A attached hereto and incorporated herein by reference, as Exhibit A may be supplemented from time to time in accordance with the provisions hereof.

"Multi-County Park" shall mean the multi-county park established pursuant to the Agreement for the Development of a Joint Industrial and Business Park (Lancaster and Chester Counties), dated December 5, 2005, and authorized and approved by Lancaster County Ordinance No. 701 and Chester County Ordinance No. 12-05-05-I, as amended by the party counties, and any successor multi-county park arrangement in which the Land is included.

"Multi-County Park Act" shall mean Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

"Negotiated FILOT" shall have the meaning set forth in Section 5.01(b)(i)(2) hereof.

"Negotiated FILOT Payment" shall mean the FILOT payment 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.

"Non-Qualifying Property" shall mean that portion of the Project consisting of: (i) property as to which the Companies or any Co-Investors incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Companies have terminated the Negotiated FILOT pursuant to Section 4.03(a)(iii) hereof.

"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 Land, buildings and other improvements on the Land to the extent placed thereon by or on behalf of the Companies or any Co-Investors, including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including the Equipment, and any Replacement Property.

"Project Commitments" shall mean, collectively, the Investment Commitment and the 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 or Co-Investor 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" shall mean CompuCom Systems, Inc., a Delaware corporation, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets permitted under Section 8.02 or Article IX hereof; or any assignee hereunder which is designated by the Sponsor and approved or ratified by the County. Except as required by law, the County's subsequent approval or ratification of an assignee hereunder shall not be required if the subsequent Assignee is Sponsor or Sponsor Affiliate.

"Sponsor Affiliate" shall mean TKC Bailes Ridge Parkway, LLC, a North Carolina limited liability company, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets permitted under Section 8.02 or Article IX hereof, or affiliated or related entities as qualified under Section 12-44-30(20) of the Code; provided, however, that such affiliate or related entity must be approved by the County as a sponsor affiliate and must agree in writing to be bound by this Agreement.

"State" shall mean the State of South Carolina.

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

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

"Wage Requirements" means Seventeen Dollars and Forty-Seven Cents (\$17.47) 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 following the year in which Economic Development Property is first placed in service (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 the Department of Revenue's then most recently published average hourly wage and the changed Wage Requirement shall apply to the subsequent five-year period. The County shall provide notice to the Sponsor and Sponsor Affiliate 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 to the County as the basis for the undertakings on its part herein contained:

(a) Sponsor is a corporation, validly existing and in good standing under the laws of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT and Special Source Revenue Credits 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, and accordingly the property tax year, for federal income tax purposes is a 52/53 week fiscal year ending on the Saturday closest to 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 operate its portion of the Project as a part of its technology based sales and marketing businesses and the Project constitutes a "project" and "economic development property" as provided under the Act.

Section 2.03. Representations and Warranties by Sponsor Affiliate. Sponsor Affiliate makes the following representations and warranties to the County as the basis for the undertakings on its part herein contained:

(a) Sponsor Affiliate 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 and the Special Source Revenue Credits have been instrumental in inducing Sponsor Affiliate to locate its portion of the Project within Lancaster County and the State.

(c) The income tax year of Sponsor Affiliate, and accordingly the property tax year, for federal income tax purposes is a 52/53 week fiscal year ending on the Saturday closest to December 31.

(d) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of Sponsor Affiliate are pending or threatened against or affecting Sponsor Affiliate in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

ARTICLE III

UNDERTAKINGS OF THE COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Companies and any Co-Investor in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. 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 and any Co-Investors 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, each Company 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 or Co-Investor 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 or Co-Investor 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 or any Co-Investors.

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 provides 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 remove the Land from the Multi-County Park prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in another 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 AND JOBS COMMITMENT BY COMPANIES IN PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

Section 4.01. Investment and Job Creation by Companies in Project.

(a) For the Project, the Companies agree and commit to invest, collectively with any Co-Investors, at least Thirty-Six Million Dollars (\$36,000,000.00) in Economic Development Property by the end of the Investment Period (the "Investment Commitment"). 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, Sponsor Affiliate

or any Co-Investor in Economic Development Property shall be included in any determination whether the Companies have fulfilled their commitment made in this subsection (a) to invest in the Project.

(b) For the Project, together with any Sponsor Affiliates and any Co-Investors, the Sponsor agrees and commits to the creation and maintenance of the number of New Full-Time Jobs, paying an average hourly wage rate not less than the Wage Requirement, by year as follows: (i) Year 1 – not less than 140; (ii) Year 2 – not less than 280; (iii) Year 3 – not less than 420; (iv) Year 4 – not less than 560; (v) Years 5 through 10 – not less than 700 (the “Jobs Commitment”). As used in this subsection (b), the “Year” number refers to the year following the year in which Economic Development Property is first placed in service 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 all Co-Investors at the end of such tax year.

(2) For purposes of determining compliance with the Jobs Commitment and determining whether the Enhanced Credit is applicable, Sponsor agrees to provide the County Economic Development Director a copy of Sponsor’s (i) most recently filed Quarterly Report Form submitted to the South Carolina Coordinating Council for Economic Development with respect to Job Development Credits awarded in connection with the Project, within thirty days of the filing of the form with the state, and (ii) most recently filed Department of Revenue Form SC SCH. TC 4 (New Jobs Credit). Sponsor agrees to redact any personally identifying information and proprietary and confidential information prior to submitting either form to the County Economic Development Director. In lieu of providing either the Job Development Credit form or New Jobs Credit form, or both, Sponsor and the County Economic Development Director may agree on an alternative method for the Sponsor to demonstrate compliance with the Jobs Commitment and to determine whether the Enhanced Credit is applicable.

(c) (1) Each Company agrees 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) 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 and Co-Investors 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' and Co-Investors' operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Companies and Co-Investors 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 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, Co-Investors and their respective 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.

As long as no Event of Default exists hereunder, the Companies and any Co-Investor 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 and Co-Investor may, at its own expense, add to the Project any real and personal property as such Company or Co-Investor in its discretion deems useful or desirable.

(ii) In any instance where any Company or Co-Investor, 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 or Co-Investor 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 and Co-Investor 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)(1) hereof.

ARTICLE V

PAYMENTS IN LIEU OF TAXES

Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Companies and any Co-Investors shall pay annually, with respect to the applicable portions of the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act.

(b) The FILOT Payment due with respect to each property tax year shall equal:

(i) For the Project:

- (1) With respect to any portion of the Project consisting of Non-Qualifying Property, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land or Non-Qualifying Property were taxable; and
- (2) With respect to those portions of the Project consisting of Economic Development Property, for each of the thirty consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) and (d) 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 of 301.1 mills, the millage rate in effect on June 30, 2016, for the entire Term of this Agreement, and (3) an assessment ratio of six percent (6%). All such calculations shall take into account all

deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be given to the Economic Development Property in amounts equal to (i) fifty percent (50%) of the Negotiated FILOT Payments for each of years one through five following the year in which such portion of the Project is placed in service, but beginning not later than the fifth year of the Investment Period; and (ii) twenty-five (25%) of the Negotiated FILOT Payments for each of years six through ten following the year in which such portion of the Project is placed in service; *provided, however*, that in the event the Companies create, collectively with any Co-Investors, at least nine hundred (900) (instead of the seven hundred (700) contained in the Jobs Commitment) by the end of the fifth year of the Investment Period, then the Special Source Revenue Credits provided pursuant to this clause (ii) shall be increased to fifty percent (50%) of the Negotiated FILOT Payments for each of years six through ten in which the nine hundred (900) New Full-Time Jobs are maintained (the "Enhanced Credit"). The provisions of Section 4.02(b)(2) apply for purposes of determining whether the Enhanced Credit is applicable.

(e) The FILOT payments are to be recalculated:

(i) to reduce such payments in the event any Company or Co-Investor 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 any Company or Co-Investor 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)(1) above, as permitted by Section 4.03(a)(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Companies or any Co-Investor 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 or any Co-Investor 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 would otherwise apply).

(g) Upon any Company's or any Co-Investor's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or

disposed of by any Company or Co-Investor, 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 thirty-year FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to FILOT payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies and Co-Investors 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)(1) hereof. In such event, the Companies and any Co-Investors 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 or Sponsor Affiliate, collectively with any Co-Investors, does not exceed Five Million Dollars (\$5,000,000.00) by the end of the applicable Investment Period. 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 or Co-Investor.

(j) (1) The Companies agree that a portion of the Special Source Revenue Credits for a year shall be reduced, prospectively, for such year to the extent that the Companies, collectively with any Co-Investors, fail to meet the Jobs Commitment, 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, at the end of Year 3, the Jobs Commitment provides for the maintenance of not less than 420 jobs satisfying the Jobs Commitments, the actual number of jobs satisfying the Jobs Commitment is 210, and the Special Source Revenue Credit to which the Companies would otherwise be entitled for Year 4 is Five Hundred Thousand Dollars (\$500,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (j)(1) would be calculated as follows:

Jobs Commitment at the end of Year 3: 420 New Full-Time Jobs

Jobs Maintained at the Project at the end of Year 3: 210 New Full-Time Jobs

Special Source Revenue Credit reduction for Year 4:

$$[420 - 210] / 420 = 210 / 420 = 50.0\%$$

$$50.0\% \times \$500,000.00 = \mathbf{\$250,000.00}$$

As an additional example, and by way of example only, if, at the end of Year 5, the Jobs Commitment provides for the maintenance of not less than 700 jobs satisfying the Jobs Commitment, the actual number jobs satisfying the Jobs Commitment is 630, and the Special Source Revenue Credit to which the Companies would otherwise be entitled for Year 6 is One Million Dollars (\$1,000,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (j)(1) would be calculated as follows:

Jobs Commitment at the end of Year 5: 700 New Full-Time Jobs

Jobs Maintained at the Project at the end of year 5: 630 New Full-Time Jobs

Special Source Revenue Credit reduction for Year 6:

$$[700 - 630] / 700 = 70 / 700 = 10\%$$

10% x \$1,000,000.00: **\$100,000.00**

(k) Beginning with the year following the end of the tenth (10th) tax year after Economic Development Property is first placed in service, and for each year thereafter, Sponsor and Sponsor Affiliate agree that the FILOT Payment due for the Economic Development Property shall be 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, if Sponsor in the immediately prior year

(i) failed to maintain investment in the Project for Economic Development Property, without regard to depreciation or other diminution in value, of not less than Eighteen Million Dollars (\$18,000,000.00), or

(ii) failed to maintain for the Project at least 350 New Full-Time Jobs paying an average hourly wage rate not less than the Wage Requirement.

As an example of the calculation set forth in this subsection (k), and by way of example only, assume that in Year 13 the investment level set in this subsection (k) has not been maintained, that the millage rate applicable for tax bills to be sent in Year 14 is 350, and all of the Economic Development Property would have a 10.5% assessment ratio applied if the property were subject to *ad valorem* taxation, then the FILOT Payment for Year 14 would be computed using the millage rate of 350 (instead of 301.1) and the 10.5% assessment ratio (instead of 6%). As an additional example, and by way of example only, assume that in Year 22 the investment level set in this subsection (k) has been maintained, but that the maintained number of New Full-Time Jobs paying an average hourly wage not less than the Wage Requirement was 300, that the millage rate applicable for tax bills to be sent in Year 23 is 375, and all of the Economic Development Property would have a 10.5% assessment ratio applied if the property were subject to *ad valorem* taxation, then, the FILOT Payment for Year 23 would be computed using the millage rate of 375 (instead of 301.1) and the 10.5% assessment ratio (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 Section 5.01(h)-(k) hereof shall be paid within ninety (90) days, following written notice thereof from the County to the Companies.

(m) Notwithstanding any other provision of this Fee Agreement, the Companies acknowledge and agree that County's obligation to provide the FILOT incentive and the Special Source Revenue Credits ends, and this Fee Agreement is terminated, if the Sponsor ceases operations. For purposes this Section 5.01(m), "**ceases operations**" means 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 or Co-Investor 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 or Co-Investor 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 or Co-Investor, 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 Affiliates 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 and further agrees to consider such assignment in the form of a Resolution of Council.

Section 8.03. Indemnification. Each 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" and each, an "Indemnified Party") from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to this Agreement, the Project or the use thereof, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party. Each 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 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 or Sponsor Affiliate 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 Five Million Dollars (\$5,000,000.00), 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 Investment Commitment by the end of the Investment Period. Sponsor or Sponsor Affiliate 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 Economic Development Property to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Simplified FILOT Act. The parties agree that, if any Sponsor or Sponsor Affiliate ceases to become party to this Agreement, the Agreement shall continue to remain in effect with respect to any remaining Sponsors or Sponsor Affiliates.

Section 8.05. Chamber of Commerce Membership. During any year in which Special Source Revenue Credits are awarded to Sponsor pursuant to the terms of this Agreement, Sponsor shall maintain membership in good standing with the Lancaster County Chamber of Commerce.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. Each Company or Co-Investor 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 or Sponsor Affiliate or their Affiliated 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, which consent or ratification shall not be unreasonably withheld, conditioned or delayed and may be given by resolution of County Council; (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 sixty (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 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 thirty (30) 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 or Sponsor Affiliate may, at its option, terminate this Agreement at any time with respect to its portion of the Project, upon providing the County thirty (30) days' notice of such termination, in which event the applicable portion of the Project shall be subject to *ad valorem* taxes from the date of termination. In the event that this Agreement is fully terminated by the operation of this Section 10.02 at any time during the initial Investment Period prior to the Companies' meeting the Investment Commitment, amounts due to the County as a result thereof shall be calculated as provided in Section 5.01(j) 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. 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, but in each case, only with respect to the defaulting entity:

- (a) if default shall be made in the due and punctual payment of any FILOT Payments, indemnification payments, or Administration Expenses, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; or
- (b) 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 (a), and such default shall continue for ninety (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.

The failure of the Companies, collectively with any Co-Investors, to meet the Project Commitments 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 and the expiration of any applicable cure periods, 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, solely with respect to the defaulting entity, by delivery of written notice to the Companies not less than thirty (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 defaulting entity pertaining to the construction, acquisition, or maintenance of the Project; or

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the defaulting entity 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. 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 Dollars (\$500.00).

Section 12.04. 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 12.05. 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:

Lancaster County
Attn: Steve Willis, County Administrator
101 N. Main St. (29720)
P.O. Box 1809 (29721-1809)
Lancaster, South Carolina
Telephone: (803) 416-9300
Fax: (803) 285-3361
Email: 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, South Carolina 29721
Telephone: (803) 286-3633
Fax: (803) 416-9497
Email: jgilbert@lancastercountysc.net

(b) As to the Sponsor:

CompuCom Systems, Inc.
Attn: Finance Director
3800 Arco Corporate Dr.
Charlotte, NC 28273

Email: Kwang.Elder@CompuCom.com

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

Womble Carlyle Sandridge & Rice, LLP
Attn: Ms. Stephanie L. Yarbrough
5 Exchange Street
Charleston, South Carolina 29401
Phone: (843) 720-4621
Email: styarbrough@wcsr.com

As to the Sponsor Affiliate

The Keith Corporation
Attn: Brendan Pierce
5935 Carnegie Blvd.
Suite 200
Charlotte, NC 28209
Email: bpierce@thekeithcorp.com
With a copy (which shall not constitute notice) to:

The Keith Corporation
Attn: Keith R. Beuley
5935 Carnegie Blvd.
Suite 200
Charlotte, NC 28209
Email: ken@thekeithcorp.com

Section 12.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 12.07. 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 12.08. 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 12.09. 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 12.10. 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 12.11. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties.

Section 12.12. 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 12.13. 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.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council; and the 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

By: _____
Name: Steve Harper
Title: Chair, County Council

By: _____
Name: Larry Honeycutt
Title: Secretary, County Council

ATTEST:

By: _____
Sherrie Simpson, Clerk to Council

[Companies signatures follow on next page.]

COMPUCOM SYSTEMS, INC.

By: _____
Name: _____
Title: _____

TKC BAILES RIDGE PARKWAY, LLC

By: _____
Name: _____
Title: _____

[The remainder of this page is intentionally left blank.]

EXHIBIT A

Land

Being 19,400 acres known as Future Tract 19-A of the Bailes Ridge Business Park as recorded in Lancaster County Register of Deeds in Plat Book _ Page _ and located in Indian Land Township, Lancaster County, South Carolina

Commencing from a found mag nail in the northern right of way of Bailes Parkway as recorded in Lancaster County Register of Deeds in Plat Book 2015 Page 108 with SCGS (NAD 83/2011) grid coordinates N=1,151,168.37, E=2,038,267.32 and a combine factor = 1.00003893, thence S47°01'19"W 107.26' to a set mag nail a common corner to Tract 19-B, being the Point of Beginning, thence with Bailes Parkway southern right of way the following 12 courses and distances, 1) a curve to the left with a radius of 640.00', a length of 76.42' and chord bearing and distance of S84°51'26"E 76.37' to a found mag nail, 2) S 88°16'41"E 303.29' to a found mag nail, 3) a curve to the right with a radius of 30.00', a length of 31.42' and a chord bearing and distance of S58°16'41"E 30.00' to a found rebar with a cap, 4) a curve to the left with a radius of 110.00', a length of 57.60' and a chord bearing and distance of S43°16'41"E 56.94' to a found rebar with a cap, 5) a curve to the right having a radius of 30.00', a length of 31.42' and a chord bearing and distance of S28°16'41"E 30.00' to a found mag nail, 6) S01°43'18"W 34.72' to a found rebar with cap, 7) S88°16'41"E 80.00' to a found rebar with cap, 8) N01°43'19"E 34.72' to a found pk nail, 9) a curve to the right with a radius of 30.00', a length of 31.42' and a chord bearing and distance of N31°43'19"E 30.00' to a found pk nail, 10) a curve to the left with a radius of 110.00', a length of 57.60' and a chord bearing and distance of N46°43'19"E 56.94' to a found pk nail, 11) a curve to the right with a radius of 30.00', a length of 31.42' and a chord bearing and distance of N51°43'19"E 30.00' to a found rebar with cap, 12) S88°16'41"E 34.72' to a found rebar with cap, a common corner to Bailes Investments Associates, LLC as recorded in Deed Book 164 Page 328, thence creating a common line S88°16'41"E 88.94' to a found 1/2" pipe a common corner to Lancaster County as recorded in Deed Book 411 Page 163, thence with the common line of Lancaster County the following 29 courses and distances, 1) S26°34'39"W 53.98' to a set #4 rebar, 2) S44°19'29"W 53.12' to a set #4 rebar, 3) S12°58'26"W 72.85' to a set #4 rebar, 4) S08°18'20"W 84.76' to a set #4 rebar, 5) S39°24'09"E 49.14' to a set #4 rebar, 6) S24°17'52"E 75.95' to a found rebar with cap, 7) S33°56'38"W 57.49' to a found rebar with cap, 8) S05°52'35"E 36.31' to a found rebar with cap, 9) S25°47'42"W 55.30' to a found rebar with cap, 10) S07°56'35"W 67.07' to a found rebar with cap, 11) S43°35'45"W 80.58' to a found rebar with cap, 12) S10°40'36"W 48.67' to a found rebar with cap, 13) S06°43'09"W 53.95' to a found rebar with cap, 14) S30°33'08"E 54.71' to a found rebar with cap, 15) S67°31'46"W 92.25' to a found rebar with cap, 16) S19°53'30"W 37.80' to a found rebar with cap, 17) S30°53'36"W 49.73' to a found rebar with cap, 18) S23°43'22"W 87.12' to a found rebar with cap, 19) S27°50'09"E 75.57' to a found rebar with cap, 20) S33°13'04"W 83.48' to a found rebar with cap, 21) S00°09'25"E 77.56' to a found rebar with cap, 22) S59°48'09"W 108.62' to a found rebar with cap, 23) S03°54'48"W 124.21' to a found rebar with cap, 24) S13°11'38"W 4.50' to a found

rebar with cap, 25) S60°42'02"W 55.48' to a found rebar with cap, 26) N79°06'43"W 67.86' to a found rebar with cap, 27) S66°18'06"W 65.55' to a found rebar with cap, 28) S85°52'36"W 63.32' to a found rebar with cap, 29) S83°42'47"W 72.62' to a found rebar with cap a common corner to Tract 20, thence with the following 5 division line, 1) N11°54'00"E 474.69' to a set #4 rebar, 2) N77°18'17"W 384.19' to a set #4 rebar a common corner to Tract 19-B, 3) N12°29'47"E 462.94' to a set #4 rebar, 4) S77°37'38"E 53.00' to a set #4 rebar, 5) N12°29'47"E 444.84' to the Point of Beginning. Containing 19.400 Acres.

Portion of Parcel Id. 0007-00-025.00

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Agenda Item Summary

Ordinance # / Resolution#: 2017 - 1439

Contact Person / Sponsor: Jamie Gilbert / John Weaver

Department: Economic Development / County Attorney

Date Requested to be on Agenda: County Council – April 10, 2017

Issue for Consideration: Whether or not it is appropriate for County Council to consider the passage of this ordinance that authorizes a Fee Agreement between the county and Movement Mortgage, LLC, as Sponsor and TKC CCII, LLC, a Sponsor Affiliate?.

Points to Consider: On October 10, 2016, Council approved Resolution No. 0938 – R2016, an Inducement Resolution (attached) that committed Lancaster County to a FILOT with Movement Mortgage that included, among other things:

- a. An investment of at least Eighteen Million Five Hundred Thousand (\$18,500,000.00) Dollars;
- b. At least seven hundred (700) new full-time jobs;
- c. An initial average wage of \$17.47; a seven (7) year Investment Period
- d. A thirty (30) year Fee Agreement;
- e. A Special Source Revenue Credit of ten (10) years equal to fifty (50%) of the FILOT payments.

The ordinance being considered by Council formalizes and memorializes the terms and conditions outlined in the Inducement Resolution.

Funding and Liability Factors: N/A

Council Options: Approve or reject the ordinance.

Recommendation: The Director of Economic Development recommends Council's approval of the Ordinance and the Fee Agreement.

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

RESOLUTION NO. 0938-R2016

A RESOLUTION

TO STATE THE COMMITMENT OF LANCASTER COUNTY TO ENTER INTO A FEE AGREEMENT WITH PROJECT 2016-10, AND/OR ITS DESIGNEE OR NOMINEE; TO PROVIDE THE GENERAL TERMS OF THE FEE AGREEMENT INCLUDING THE PROVISION OF SPECIAL SOURCE REVENUE CREDITS; TO IDENTIFY THE PROJECT FOR PURPOSES OF THE FEE IN LIEU OF TAX SIMPLIFICATION ACT; TO STATE THE COMMITMENT OF LANCASTER COUNTY TO PLACE PROJECT PROPERTY IN A MULTI-COUNTY PARK; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

WHEREAS, Lancaster County, South Carolina (the "County"), 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 manpower, 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, the County has previously entered into a Fee Agreement with respect to a previously announced investment and job creation project with Project 2016-10 ("Prior Project"); and

WHEREAS, Project 2016-10, 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 additional capital in the County in order to construct and install one or more additional facilities in the County (the "Additional Project"), provided that approvals of various incentives contemplated for the Additional Project are formalized by the State and/or County; and

WHEREAS, the Additional Project is anticipated to result in an investment of at least \$18,500,000 and the creation of at least 700 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 Additional Project; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Additional Project would be a "project" and "economic development property" as such terms are defined in the Act and that the Additional 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, the County intends by this Resolution to commit itself, as it relates to the Additional Project, 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; and (iii) locate the Additional Project in an MCP Park.

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

1. The adoption of this Resolution is an official action by the County Council to identify, reflect and induce the Additional Project under the Act. For purposes of the Act, this Resolution is an "Inducement Resolution." For purposes of Section 12-44-110 of the Act, this Resolution constitutes preliminary approval by the County prior to the execution of a fee agreement.

2. The County commits to enter into a negotiated FILOT arrangement with the Company for the Additional Project, the terms of which shall be set forth in a Fee Agreement in form and manner satisfactory to the County and the Company containing substantially the following terms:

- a. an investment period of seven (7) years (the "Investment Period"); and
- b. the Company's commitment to invest at least eighteen million five hundred thousand dollars (\$18,500,000.00) in economic development property for the Additional Project, not later than the end of the Investment Period (the "Investment Commitment"); and
- c. the Company's commitment to create, not later than the earlier of either the fifth year following the issuance of an occupancy permit for the main building of the Additional Project or the end of the Investment Period, and thereafter to maintain for as long as the Company is receiving a special source revenue credit, at least seven hundred (700) new full-time jobs (*i.e.*, at least thirty (30) hours per week), with health care benefits and an hourly wage rate not less than the County's average hourly wage rate as published by the South Carolina Department of Revenue (the "Jobs Commitment"). The initial average hourly wage rate is seventeen dollars and forty-seven cents (\$17.47) and will be adjusted periodically beginning in year six of the Fee Agreement. The Company and County will agree upon the number of new full-time jobs that must be created in each year prior to the year in which the seven hundred (700) new full-time jobs must be created and the annual number is included in the Jobs Commitment; and
- d. the Company's commitment to create, under the Fee Agreement for the Prior Project and the Fee Agreement for the Additional Project, by the end of the fifth year of the Investment Period for the Fee Agreement for the Additional Project and to maintain in years six through ten of the Additional Project a total of eight hundred (800) full time jobs with health care benefits and an hourly wage rate of seventeen dollars and forty-seven cents (\$17.47) (the "Total Jobs Commitment"); and
- e. calculation of FILOT Payments using an assessment ratio of six percent (6%) and a millage rate fixed for the term of the Fee Agreement at the lower of the cumulative property tax millage rate for all taxing entities within which the Additional Project is located on either June thirtieth of the year preceding the calendar year in which the Fee Agreement is executed or the millage rate in effect on June thirtieth of the calendar year in which the Fee Agreement is executed; and

- f. a term of thirty (30) years for the Fee Agreement and for each phase of the Additional Project; and
- g. a special source revenue credit equal to fifty percent (50%) of the FILOT Payments for ten (10) consecutive years beginning not later than the fifth year of the Investment Period. In any year in which the Company fails to meet the Jobs Commitment or the Total Jobs Commitment, the annual special source revenue credit shall be reduced in the same proportion that the Company failed to meet the Jobs Commitment or Total Jobs Commitment; and
- h. for year eleven of the Fee Agreement, and for each year thereafter, the Company's agreement that the Fee Agreement is suspended for the then current year if the Company fails to maintain an investment in economic development property for the Additional Project of not less than nine million two-hundred fifty thousand dollars (\$9,250,000.00) and for the Prior Project of not less than ten million six hundred thousand dollars (\$10,600,000.00) or fails to maintain under the Fee Agreement for the Additional Project an employment base of at least six hundred fifty (650) full-time jobs (*i.e.*, at least thirty (30) hours per week), with health care benefits and an hourly wage rate not less than the County's average hourly wage rate as published by the South Carolina Department of Revenue; and
- i. 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. 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 same period that the Fee Agreement is effective.

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

(B) As used in this Section 4, "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 written evidence of the grants or assistance when approved.

5. Council's commitments and agreements contained in Sections 3 and 4 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.

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

7. 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.

8. 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.

9. This Resolution takes effect upon its adoption.

SIGNATURES FOLLOW ON NEXT PAGE.

Adopted this 10th day of October, 2016.

LANCASTER COUNTY, SOUTH CAROLINA

[SEAL]



Bob Bundy, Chair, County Council



Steve Harper, Secretary, County Council

Attest:



Debbie C. Hardin, Clerk to Council

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STATE OF SOUTH CAROLINA

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COUNTY OF LANCASTER

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ORDINANCE NO. 2017-1439

AN ORDINANCE

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

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

Section 1. Findings.

The Lancaster County Council finds that:

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

(b) the County is authorized by Sections 4-1-175 and 4-29-68 of the Code, as amended, and Section 12-44-70 of the Act to provide special source revenue credits for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County;

(c) Movement Mortgage, LLC (the "Sponsor") is considering investing, through itself and/or one or more existing or to be formed affiliated entities and/or one or more unrelated parties, including TKC CCII, LLC (the "Sponsor Affiliate"), in personal property and certain real estate improvements located in the County which would constitute a project within the meaning of the Act and which are eligible for

inclusion as economic development property, the cost of which is estimated to be at least Eighteen Million, Five Hundred Thousand Dollars (\$18,500,000.00) over seven (7) years (the "Project");

(d) pursuant to Resolution No. 0938-R2016, adopted October 10, 2016, the Council approved an Inducement Resolution providing for, among other things, the agreement of the County to enter into a fee-in-lieu of tax incentive with the Sponsor and the provision of special source revenue credits;

(e) the Sponsor and Sponsor Affiliate have caused to be prepared and presented to the Council the form of the Fee Agreement by and among the County, the Sponsor and the Sponsor Affiliate (the "Fee Agreement"), which provides for fee-in-lieu of tax payments utilizing a six percent (6%) assessment ratio and fixed millage rate as of June 30, 2016 (which is understood to be 301.1 mills) for a period of thirty (30) years for the Project or each component thereof placed in service during the initial investment period and any investment period extension to which the County, the Sponsor and the Sponsor Affiliate agree, and for special source revenue credits equal to fifty percent (50%) of the fee-in-lieu of tax payments for ten consecutive years beginning not later than the fifth year of the investment period; and

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

Section 2. Approval of Fee Agreement.

Subject to the provisions of Section 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 Sponsor Affiliate to expand or locate an industrial facility in the State, the Fee Agreement is hereby authorized, ratified, and approved.

Section 3. Statutory Findings.

Council makes the following additional findings:

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

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

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

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

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

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

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

Section 4. Approval and Execution of Fee Agreement.

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

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

Section 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 Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee 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.

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:	April 10, 2017	
Second Reading:	April 24, 2017	Tentative
Public Hearing:	May 8, 2017	Tentative
Third Reading:	May 8, 2017	Tentative

Exhibit A to Ordinance No. 2017-1439

**Fee Agreement
Lancaster County, Movement Mortgage, LLC and TKC CCII, LLC**

See attached.

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FEE AGREEMENT

by and among

LANCASTER COUNTY, SOUTH CAROLINA,

MOVEMENT MORTGAGE, LLC, as Sponsor

and

TKC CCII, LLC, as Sponsor Affiliate

Dated as of May 22, 2017

FEE AGREEMENT

This FEE AGREEMENT is dated as of May 22, 2017, by and among Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), Movement Mortgage, LLC, a Delaware limited liability company, or affiliated or related entities (the "Sponsor") and TKC CCII, LLC, a North Carolina limited liability company, or affiliated or related entities (the "Sponsor Affiliate") and together with the Sponsor referred to herein as the "Companies").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (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 workforce, 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; and (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and

WHEREAS, the Sponsor proposes to make new taxable investments in the County (the "Project"); and

WHEREAS, the Sponsor Affiliate owns the property where the Project will be located and improvements made thereon and thereto; and

WHEREAS, the Sponsor anticipates that the Project will result in the creation of approximately 700 new, full time jobs and, and the Companies anticipate that the Project will result in an investment of approximately \$18,500,000.00 in the County; and

WHEREAS, the County Council approved on October 10, 2016 Resolution No. 0938 – R2016 (the "Inducement Resolution"), an 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 Sponsor making new and taxable investments in the County and the Companies requested that the County complete the FILOT arrangement referred to in the Inducement Resolution by entering into this Fee 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 encompass the terms surrounding the Project and allowing the Sponsor to make FILOT payments pursuant to the Act; and

WHEREAS, it is presently anticipated, but not required, that Sponsor Affiliate 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, it is presently anticipated, but not required, that Sponsor will hereafter own that portion of the Project composed of personal property now or hereafter located on the Land; and

WHEREAS, for the Project, the parties have determined that the Companies are a Project Sponsor, and that 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 One Dollar (\$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; Summary Agreement.

(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:

Movement Mortgage, LLC, a Delaware corporation (Sponsor)
TKC CCII, LLC, a North Carolina limited liability company (Sponsor
Affiliate)
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:

Parcel Id. No. 0007-00-025.06
Old Bailes Ridge Road
Indian Land, SC 29707

- Lancaster County
3. Minimum investment agreed upon:
\$18,500,000.00
 4. Length and term of this Agreement:
Thirty (30) years for each annual increment of investment in the Project during the Investment Period.
 5. Assessment ratio applicable for each year of this Agreement:
6%, except as otherwise provided in the Agreement
 6. Millage rate applicable for each year of this Agreement: 301.1, the millage rate in effect on June 30, 2016, 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 provided for the qualifying Economic Development Property in amounts equal to fifty percent (50%) of the Negotiated FILOT Payments for ten consecutive years, beginning not later than the fifth year of the Investment Period, subject to reduction if the Jobs Commitment or Total Jobs Commitment is unmet;
 - (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, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof.

“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 or by the Act, and dated as of May 22, 2017.

“Co-Investors” shall mean the Companies, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Act, any Affiliate of the Companies or of any such other Sponsor or Sponsor Affiliate, 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, or providing funds for, the Project. The Companies shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Companies and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the Negotiated FILOT to property owned by any such Sponsor, Sponsor Affiliate, or other Co-Investor, comply with any additional notice requirements, or other applicable provisions, of the Act. As of the original execution and delivery of this Agreement, the Companies are the only Co-Investors.

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

“Company” or *“Companies”* shall mean, individually or collectively as the context may require, Sponsor or Sponsor Affiliate and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets permitted under Section 8.02 or Article IX hereof; or any assignee hereunder which is designated by the Companies and approved or ratified by the County. Except as required by law or as otherwise required by this Agreement, the County’s subsequent approval or ratification of an assignee hereunder shall not be required if the subsequent assignee is an Affiliate of the assignor.

“Confidential Information” shall have the meaning set forth in Section 4.02(d) hereof.

“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.

“Equipment” shall mean all machinery, equipment, furnishings, and other personal property acquired by the Companies 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) property acquired or constructed by the Companies or Co-Investors during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; or (b) modifications which constitute an expansion of Existing Property.

“Filings” shall have the meaning set forth in Section 4.02(c) hereof.

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

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

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

“Indemnified Party” shall have the meaning ascribed to it in Section 8.03 hereof.

“Investment Commitment” shall mean the agreement and commitment of the Companies to make capital 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 seven 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 agreement and commitment of the Companies to create and maintain jobs with respect to the Project as set forth in Section 4.01(b)(1) of this Agreement.

“Land” shall mean the real estate upon which the Project is to be located, as described in Exhibit A attached hereto and incorporated herein by reference, as Exhibit A may be supplemented from time to time in accordance with the provisions hereof.

“Multi-County Park” shall mean the multi-county park established pursuant to the Agreement for the Development of a Joint Industrial and Business Park (Lancaster and Chester Counties), dated December 5, 2005, and authorized and approved by [Lancaster County Ordinance No. 701] and Chester County Ordinance No. 12-05-05-I, as amended by the party counties, and any successor multi-county park arrangement in which the Land is included.

“Multi-County Park Act” shall mean Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

“Negotiated FILOT” shall have the meaning set forth in Section 5.01(b)(i)(2) hereof.

“Negotiated FILOT Payment” shall mean the FILOT payment 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. As used in this definition and as applicable to the Prior Project, “New Full-Time Job” includes only those jobs created for the Prior Project in or after the first year in which Economic Development Property is purchased or acquired for the Prior Project.

“Non-Qualifying Property” shall mean that portion of the Project consisting of: (i) property as to which the Companies incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Companies have terminated the Negotiated FILOT pursuant to Section 4.03(a)(iii) hereof.

“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.

“Prior Project” shall mean the “Project” as defined in that certain Fee Agreement by and among Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina and Movement Mortgage, Inc. a Delaware limited liability company and TKC CCII, LLC a North Carolina limited liability company, dated November 23, 2015.

“Project” shall mean, collectively herein, the Project, and shall include the Land, the buildings and other improvements on the Land to the extent placed thereon by 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.

“Released Property” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in Article VII hereof, and any infrastructure which the Companies dedicate to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

“Replacement Property” shall mean all property installed in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(g) hereof and Section 12-44-60 of the Code.

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

“Sponsor” shall mean Movement Mortgage, LLC, a Delaware limited liability company and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets permitted under Section 8.02 or Article IX hereof; or any assignee hereunder which is designated by the Sponsor and approved or ratified by the County. Except as required by law, the County’s subsequent approval or ratification of an assignee hereunder shall not be required if the subsequent Assignee is Sponsor or Sponsor Affiliate.

“Sponsor Affiliate” shall mean TKC CCIL, LLC, a North Carolina limited liability company, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets permitted under Section 8.02 or Article IX hereof, or affiliated or related entities of any Sponsor or Sponsor Affiliate as qualified under Section 12-44-30(20) of the Code; provided, however, that such affiliate or related entity must be approved by the County as a sponsor affiliate and must agree in writing to be bound by this Agreement.

“State” shall mean the State of South Carolina.

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

“Total Jobs Commitment” shall mean the agreement and commitment of the Companies to create and maintain jobs with respect to the Project as set forth in Section 4.01(b)(2) of this Agreement.

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

“Wage Requirement” means Seventeen Dollars and Forty-Seven Cents (\$17.47) 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 following the year in which Economic Development Property is first placed in service (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 the Department of Revenue’s then most recently published average hourly wage and the changed Wage Requirement shall apply to the subsequent five-year period. The County

shall provide notice to the Sponsor and Sponsor Affiliate 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 to the County as the basis for the undertakings on its part herein contained:

(a) Movement Mortgage, LLC is a limited liability company, validly existing and in good standing under the laws of the State of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT and Special Source Revenue Credits have been instrumental in inducing the Sponsor to locate the Project within Lancaster County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Sponsor are pending or threatened against or affecting the Sponsor in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) The income tax year of the Sponsor, and accordingly the property tax year, for federal income tax purposes is January 1st through December 31st.

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

(f) The Sponsor intends, with the Project, to make new, taxable investments in the County, and the Project constitutes a “project” and “economic development property” as provided under the Act.

Section 2.03. Representations and Warranties by Sponsor Affiliate. The Sponsor Affiliate makes the following representations and warranties to the County as the basis for the undertakings on its part herein contained:

(a) TKC CCII, LLC is a limited liability company validly existing and in good standing under the laws of the State of North Carolina and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT have been instrumental in inducing Sponsor Affiliate 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 the Sponsor Affiliate are pending or threatened against or affecting the Sponsor Affiliate in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

ARTICLE III

UNDERTAKINGS OF THE COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Companies and any Co-Investor in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. The Companies acknowledge that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for the Companies' 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 and any Co-Investor 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, any Company 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 or Co-Investor 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 or Co-Investor 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 or any Co-Investors.

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 provides 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 remove the Land from the Multi-County Park prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in another 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.

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ARTICLE IV

INVESTMENT AND JOBS COMMITMENTS BY SPONSOR AND SPONSOR AFFILIATE IN PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

Section 4.01. Investment and Jobs Commitments by Sponsor and Sponsor Affiliate.

(a) For the Project, together with any Sponsor Affiliates and any Co-Investors, the Sponsor agrees and commits to a total investment of at least Eighteen Million Five Hundred Thousand Dollars (\$18,500,000.00) in Economic Development Property, at the Project by not later than the end of the Investment Period (the "Investment Commitment"). The investment amount shall not include any amount paid by the Companies for real estate improvements on the Land existing as of the date of this Agreement. Investments made by Sponsor Affiliate and any Co-Investors in Economic Development Property for the Project shall be included in the determination whether Sponsor has fulfilled its commitment made in this subsection (a) to invest in the Project.

(b) (1) For the Project, together with any Sponsor Affiliates and any Co-Investors, the Sponsor agrees and commits to the creation and maintenance of the number of New Full-Time Jobs, paying an average hourly wage rate not less than the Wage Requirement, by year as follows: (i) Year 1 – not less than 100; (ii) Year 2 – not less than 200; (iii) Year 3 – not less than 300; (iv) Year 4 – not less than 400; (v) Year 5 – not less than 500; (vi) Year 6 – not less than 600; and (vii) Years 7 through 10 – not less than 700 (the "Jobs Commitment"). As used in this subsection (b), the "Year" number refers to the year following the year in which Economic Development Property is first placed in service 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.

(2) In addition to the Jobs Commitment, Sponsor, together with any Sponsor Affiliates and any Co-Investors, agrees and commits to create, under the Fee Agreement for the Prior Project and this Agreement for the Project, by the end of the fifth year of the Investment Period a combined total of at least 800 New Full-Time Jobs paying an average hourly wage of Seventeen Dollars and Forty-Seven Cents (\$17.47) and to maintain in Years 6 through 10 a combined total of at least 800 New Full-Time Jobs paying an average hourly wage of Seventeen Dollars and Forty-Seven Cents (\$17.47) for the Project and Prior Project (the "Total Jobs Commitment").

Section 4.02. Reporting and Filing.

(a) The Companies agree 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, the Companies 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 all Co-Investors at the end of such tax year.

(2) For purposes of determining compliance with the Jobs Commitment and the Total Jobs Commitment, Sponsor agrees to provide the County Economic Development Director a copy of Sponsor's (i) most recently filed Quarterly Report Form submitted to the South Carolina Coordinating Council for Economic Development with respect to Job Development Credits awarded in connection with the Project, within thirty days of the filing of the form with the state, and (ii) most recently filed Department of Revenue Form SC SCH. TC 4 (New Jobs Credit). Sponsor agrees to redact any personally identifying information and proprietary and confidential information prior to submitting either form to the County Economic Development Director. In lieu of providing either the Job Development Credit form or New Jobs Credit form, or both, Sponsor and the County Economic Development Director may agree on an alternative method for the Sponsor to demonstrate compliance with the Jobs Commitment and Total Jobs Commitment.

(c) (1) Each Company agrees 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) 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) County acknowledges and understands that the Companies and Co-Investors 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' and Co-Investors' operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Companies and Co-Investors and could have a significant detrimental impact on the Sponsor's and Sponsor Affiliate's employees and also upon the County. Except as required by law, including, without limitation,

court orders, the County agrees to use 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 and Co-Investors, 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 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 and any Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Companies and any Co-Investors may, at their own expense, add to the Project any real and personal property as the Companies and Co-Investors in their discretion deem useful or desirable.

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

(iii) The Companies and any Co-Investors may, at any time in their discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT (as defined in Section 5.01) set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in Section 5.01(b)(i)(1) hereof.

ARTICLE V

PAYMENTS IN LIEU OF TAXES

Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Companies and any Co-Investors shall pay annually, with respect to the applicable portion of the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act.

(b) The FILOT Payment due with respect to each property tax year shall equal:

(i) For the Project:

- (1) With respect to any portion of the Project consisting of Non-Qualifying Property, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land or Non-Qualifying Property were taxable; and
- (2) With respect to those portions of the Project consisting of Economic Development Property, for each of the thirty consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) and (d) 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 of 301.1, mills, the millage rate in effect on June 30, 2016, for the entire Term of this Agreement and (3) an assessment ratio of six percent (6%). All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be given to the Economic Development Property in amounts equal to fifty percent (50%) of the Negotiated FILOT Payments for ten consecutive years, beginning not later than the fifth year of the Investment Period.

(e) The FILOT payments are to be recalculated:

- (i) to reduce such payments in the event the Companies or any Co-Investors dispose of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in Section 4.03 hereof, by the amount applicable to the Released Property;
- (ii) to increase such payments in the event the Companies or any Co-Investors add property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if the Companies elect to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i)(1) above, as permitted by Section 4.03(a)(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Companies or any Co-Investor 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 or any Co-Investor 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 would otherwise apply).

(g) Upon the Companies' or any Co-Investor's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by the Companies or any Co-Investor, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the FILOT, whether real or personal, which is disposed of in the same property tax year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of Economic Development Property which it is replacing. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT payment for the period of time remaining on the thirty-year FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to FILOT payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies and Co-Investors 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)(1) hereof. In such event, the Companies and any Co-Investor 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 the Companies and any Co-Investor does not exceed Five Million Dollars (\$5,000,000.00) by the end of the applicable Investment Period. 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 or Co-Investor.

(j) (1) The Companies agree that the Special Source Revenue Credits for a year shall be reduced, prospectively, for such year to the extent that the Companies, collectively with any Co-Investors, fail to meet the Jobs Commitment, 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, at the end of Year 3, the Jobs Commitment provides for the maintenance of not less than 300 jobs satisfying the Jobs Commitment, the actual number of jobs satisfying the Jobs Commitment is 240, and the Special Source Revenue Credit to which the Companies would otherwise be entitled for Year 4 is Five Hundred Thousand Dollars (\$500,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (j)(1) would be calculated as follows:

Jobs Commitment at the end of Year 3: 300 New Full-Time Jobs

Jobs Maintained at the end of Year 3: 240 New Full-time Jobs

Special Source Revenue Credit reduction for Year 4:

$$[240 - 300] / 300 = 60 / 300 = 20\%$$

$$20\% \times \$500,000.00: \textbf{\$100,000.00}$$

As an additional example, and by way of example only, if at the end of Year 7, the Jobs Commitment provides for the maintenance of not less than 700 jobs satisfying the Jobs Commitment, the actual number of jobs satisfying the Jobs Commitment is 630, and the Special Source Revenue Credit to which the Companies would otherwise be entitled for Year 8 is One Million Dollars (\$1,000,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (j)(1) would be calculated as follows:

Jobs Commitment at the end of Year 7: 700 New Full-Time Jobs

Jobs Maintained at the end of Year 7: 630 New Full-Time Jobs

Special Source Revenue Credit reduction for Year 8:

$$[700 - 630] / 700 = 70 / 700 = 10\%$$

$$10\% \times \$1,000,000.00: \textbf{\$100,000.00}$$

(2) Notwithstanding the provisions of subsection (j)(1), the Companies agree that the Special Source Revenue Credits for a year shall be reduced, prospectively, for such year to the extent that the Companies, collectively with any Co-Investors, fail to meet the Total Jobs Commitment, in a percentage amount equal to (A) the amount by which the number of jobs satisfying the Total Jobs Commitment at the Project at the end of such year is less than the number of jobs contained in the Total Jobs Commitment for such year, *divided by* (B) the number of jobs contained in the Total Jobs Commitment for such year. For example, and by way of example only, if, at the end of Year 6, the Total Jobs Commitment provides for the maintenance of not less than 800 jobs satisfying the Total Jobs Commitment, the actual number of jobs satisfying the Jobs Commitment is 730, and the Special Source Revenue Credit to which the Companies would otherwise be entitled for Year 7 is One Million Dollars (\$1,000,000.00), then the reduction of the Special Source Revenue Credit pursuant to this subsection (j)(1) would be calculated as follows:

Total Jobs Commitment at the end of Year 6: 800 New Full-Time Jobs

Total Jobs Maintained at the end of Year 6: 730 New Full-Time Jobs

Special Source Revenue Credit reduction for Year 7:

$$[800 - 730] / 800 = 70 / 800 = 11.49\%$$

$$11.49\% \times \$1,000,000.00: \textbf{\$114,900.00}$$

(k) Beginning with the year following the end of the tenth (10th) tax year after Economic Development Property is first placed in service, and for each year thereafter, Sponsor and Sponsor Affiliate agree that the FILOT Payment due for the Economic Development Property shall be 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, if Sponsor in the immediately prior year

(i) failed to maintain investment in the Project for Economic Development Property, without regard to depreciation or other diminution in value, of not less than Nine Million Two-Hundred Fifty Thousand Dollars (\$9,250,000.00) and investment in the Prior Project for Economic Development Property, without regard to depreciation or other diminution in value, of not less than Ten Million Six Hundred Thousand Dollars (\$10,600,000.00), or

(ii) failed to maintain for the Project at least 650 New, Full-Time Jobs paying an average hourly wage rate not less than the Wage Requirement.

As an example of the calculation set forth in this subsection (k), and by way of example only, assume that in Year 13 one or both of the investment levels set in this subsection (k) have not been maintained, that the millage rate applicable for tax bills to be sent in Year 14 is 350, and all of the Economic Development Property would have a 10.5% assessment ratio applied if the property were subject to *ad valorem* taxation, then the FILOT Payment for Year 14 would be computed using the millage rate of 350 (instead of 301.1) and the 10.5% assessment ratio (instead of 6%). As an additional example, and by way of example only, assume that in Year 22 both of the investment levels set in this subsection (k) have been maintained, but that the maintained number of New, Full-Time Jobs paying an average hourly wage not less than the Wage Requirement was 600, that the millage rate applicable for tax bills to be sent in Year 23 is 375, and all of the Economic Development Property would have a 10.5% assessment ratio applied if the property were subject to *ad valorem* taxation, then, the FILOT Payment for Year 23 would be computed using the millage rate of 375 (instead of 301.1) and the 10.5% assessment ratio (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 Section 5.01(h)-(k) hereof shall be paid within ninety (90) days, following written notice thereof from the County to the Companies.

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

ARTICLE VI

PAYMENT OF EXPENSES BY SPONSOR

Section 6.01. Defaulted Payments. In the event the Companies or any Co-Investor 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 Companies or any Co-Investor

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, the Companies or any Co-Investor, in their 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, the Companies shall use the Project for any lawful purpose authorized pursuant to the Act.

Section 8.02. Assignment. The County agrees that, to the maximum extent allowable under the Act (or any amendments thereto), the Companies may assign (including, without limitation, absolute, collateral, and other assignments) all or a part of its rights or obligations under this Agreement, and any lease agreement, lease purchase agreement, or fee agreement, as the case may be, or any other agreement related hereto or thereto, or transfer any and all assets of the Companies, to one or more Affiliates without adversely affecting the benefits of the Companies or their assignees pursuant to any such agreement or the Act. The Companies shall provide the County and the Department of Revenue with notice of any such assignment, transfer, or investment in accordance with the Act, and the County agrees, upon the request of the Companies, 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 and further agrees to consider such assignment in the form of a Resolution of Council.

Section 8.03. Indemnification of the County. Each 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" and each an "Indemnified Party") from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever

pertaining to this Agreement, the Project or the use thereof, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party. The Companies further agree to indemnify and save harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the 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, the Companies, 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 Companies, 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 Companies 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 their 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 or Sponsor Affiliate 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 \$5,000,000.00, 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 Investment Commitment by the end of the Investment Period. Sponsor or Sponsor Affiliate 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 Economic Development Property to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Simplified FILOT Act. The parties agree that, if any Sponsor or Sponsor Affiliate ceases to become party to this Agreement, the Agreement shall continue to remain in effect with respect to any remaining Sponsors or Sponsor Affiliates.

Section 8.05. Chamber of Commerce Membership. During any year in which Special Source Revenue Credits are awarded to Sponsor pursuant to the terms of this Agreement, Sponsor shall maintain membership in good standing with the Lancaster County Chamber of Commerce.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. The Companies and any Co-Investors may at any time: (a) transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; provided that, in connection with any of the foregoing transfers: (i) except in connection with any transfer to the Companies, any of the Affiliates of the Companies, or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Companies shall first obtain the prior written consent or subsequent

ratification of the County, which consent or ratification shall not be unreasonably withheld, conditioned or delayed and may be given by resolution of County Council; (ii) except where a financing entity, which is the income tax owner of all or part of the Project, is the transferee pursuant to clause (b) above and such transferee or financing entity assumes in writing the obligations of the Companies hereunder, or where the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Companies hereunder, but all obligations of the Companies hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety; (iii) the Companies, transferee, or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (iv) the Companies and the transferee shall comply with all other requirements of the Transfer Provisions.

The Companies acknowledge that such a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the 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 Sponsor's expense, to execute such agreements, documents, and instruments as may be reasonably required by such secured party or parties to effectuate or document such subordination.

ARTICLE X

TERM; TERMINATION

Section 10.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the 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 thirty (30) 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 Companies, may, at their option, terminate this

Agreement at any time upon providing the County thirty (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 Investment Commitment, amounts due to the County as a result thereof shall be calculated as provided in Section 5.01(j) 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. 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 a Company, but solely with respect to such defaulting company:

(a) if default shall be made by a Company in the due and punctual payment of any FILOT Payments, indemnification payments, or Administration Expenses, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; or

(b) if default shall be made by a 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 (a), and such default shall continue for ninety (90) days after the County shall have given such Company written notice of such default, provided, that 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.

The failure of the Companies, collectively with any Co-Investors, to meet the Investment Commitment and/or the Jobs 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. Upon the occurrence of any Event of Default and the expiration of any applicable cure periods, 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, solely with respect to the defaulting entity, by delivery of written notice to the Companies not less than thirty (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 defaulting entity pertaining to the construction, acquisition, or maintenance of the Project; or

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the defaulting entity under this Agreement.

Section 11.03. Default by the County. Upon the default of the County in the performance of any of its obligations hereunder, the Companies 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. Administration Expenses.

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

(b) The Sponsor agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual FILOT Payments and any Special Source Revenue Credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at five hundred dollars (\$500.00).

Section 12.03. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 12.04. 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 12.05. 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:

Lancaster County
Attn: Steve Willis, County Administrator
101 N. Main St. (29720)
P.O. Box 1809 (29721-1809)
Lancaster, South Carolina
Telephone: (803) 416-9300
Fax: (803) 285-3361
Email: 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, South Carolina 29721
Telephone: (803) 286-3633
Fax: (803) 416-9497
Email: jgilbert@lancastercountysc.net

(b) As to the Sponsor:

Mr. Eric Mager
Director of Financial Performance and Analysis
8024 Calvin Hall Road
Indian Land, SC 29707
Telephone: (980) 263-2508
Email: eric.mager@movement.com

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

Ms. Stephanie L. Yarbrough
Womble Carlyle Sandridge & Rice, LLP
5 Exchange Street

Charleston, South Carolina 29401
Phone: (843) 720-4621
Email: styarbrough@wcsr.com

(c) as to the Sponsor Affiliate

The Keith Corporation
Attn: Brendan Pierce
5935 Carnegie Blvd.
Suite 200
Charlotte, NC 28209
Email: bpierce@thekeithcorp.com

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

The Keith Corporation
Attn: Keith R. Beuley
5935 Carnegie Blvd.
Suite 200
Charlotte, NC 28209
Email: ken@thekeithcorp.com

Section 12.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 12.07. 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 12.08. Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 12.09. 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 12.10. 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 12.11. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties.

Section 12.12. 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 12.13. 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.

[Signature pages follow]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and 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

Name: Steve Harper
Title: Chair, County Council

Name: Larry Honeycutt
Title: Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

[Companies' signatures follow on next page.]

MOVEMENT MORTGAGE, LLC,
a Delaware limited liability company

By: _____
Name: Eric Mager
Title: Director of Financial Performance and Analysis

TKC CCII, LLC,
a North Carolina limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

**PROPERTY DESCRIPTION
LANCASTER COUNTY**

That certain parcel and tract of Land lying and being situated in Bailes Ridge Business Park, Lancaster County, South Carolina and being more particularly described as follows:

All that certain piece, parcel or tract of land situate, lying and being on the southwestern side of SC Highway No. 160 and the northwestern side of Calvin Hall Road, in the County of Lancaster, State of South Carolina and being shown and designated as Tract 17, containing 11.819 acres, more or less, as shown on plat of survey entitled "Record Plat – 29.178 acres, Bailes Parkway & Calvin Hall Road of Bailes Ridge Business Park" prepared by Yarbrough-Williams & Houle, Inc. dated February 11, 2015, recorded in the Office of the Clerk of Court for Lancaster County in Plat Book 2015 at Page 108, on February 23, 2015, reference to which is hereby craved for a metes and bounds description thereof.

Parcel Id. No. 0007-00-025.06

LANCASTER COUNTY BOARDS & COMMISSIONS
APPLICATION FOR SERVICE



Name IRA S. Bell County Council District 60

Mailing Address P.O. Box 367 City/Zip LANCASTER SC 29721

Street Address _____ Registered Voter yes _____ no _____

Tel. Number (home) _____ (work) _____ (other) _____

Email: IrBell@compuum-net

Occupation _____ Place of employment _____

Address 317 W meeting st. 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 Assessment 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? NO If yes, list _____

Have you ever served on a county board? Yes If yes, list Assessment APPEALS

Additional pertinent information

Applicant's signature I S Bell Date 02/1/17
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

MEETINGS & FUNCTIONS – 2017

DAY/DATE	TIME	FUNCTION/LOCATION
Monday, April 10 th	4:00 p.m.	Public Safety Committee Council Conference Room
Monday, April 10 th	6:00 p.m.	Council Meeting Council Chambers, Administration Building
Tuesday, April 11 th	3:00 p.m.	Infrastructure and Regulation Committee (I&R) Council Conference Room
Tuesday, April 11 th	5:00 p.m.	Administration Committee Council Chambers, Administration Building
Monday, April 24 th	6:00 p.m.	Council Meeting Council Chambers, Administration Building

LANCASTER COUNTY STANDING MEETINGS

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