

STATE OF SOUTH CAROLINA)
) **AMENDMENT TO FEE IN LIEU OF TAX AGREEMENT**
COUNTY OF GREENVILLE)

This Amendment to Fee in Lieu of Tax Agreement (the “*Amendment*”) is entered into by and among GREENVILLE COUNTY, SOUTH CAROLINA (the “*County*”), ROY METAL FINISHING COMPANY, INC. (“*Roy Metals*”), and JPCR, LLC (“*JPCR*”) (Roy Metals and JPCR collectively referred to as the “*Company*”) this ____ day of _____, 2017.

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 “*FILOT Act*”), and Title 4, Chapters 1 and 29 (the “*Multi-County Park Act*”) of the Code of Laws of South Carolina, 1976, as amended, to enter into agreements with industry whereby the industry would pay fees in lieu of taxes with respect to qualified projects, to provide infrastructure credits against payments in lieu of taxes for reimbursement in respect of investment in certain infrastructure enhancing the economic development of the County; through all such powers the industrial development of the State of South Carolina (the “*State*”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, pursuant to the FILOT Act, the County previously entered into that certain Fee in Lieu of Tax Agreement with the Company dated June 1, 2012 (the “*Fee Agreement*”), providing for the payment of fees in lieu of taxes with respect to the Project, as the Fee Agreement defines such term; and

WHEREAS, pursuant to the Multi-County Park Act, the property encompassing the Project was initially included in that certain Multi-County Park Agreement by and between the County and Williamsburg County dated October 4, 1994 and then subsequently included in that certain Multi-County Park by and between the County and Anderson County dated as of December 31, 2015; and

WHEREAS, the Company has represented that it intends to expand the Project such that the total investment under the Fee Agreement will reach approximately \$60,000,000 (the “*Expansion*”); and

WHEREAS, Section 12-44-30(13) of the FILOT Act provides that the Company may request an extension of the Investment Period, as the FILOT Act defines such term, and the County may approve an extension of up to five years; and

WHEREAS, Section 12-44-30(21) of the FILOT Act provides that the Company may request an extension of the Termination Date, as the FILOT Act defines such term, and the County may approve an extension of the Termination Date to a total of 39 years following the first property tax year in which an applicable piece of economic development property is placed in service; and

WHEREAS, Section 4-1-175 of the Multi-County Park Act authorizes the County to provide special source revenue credits to offset fees in lieu of taxes for the purposes outlined in Section 4-29-68 of the Multi-County Park Act; and

WHEREAS, the Company has requested an extension of the Investment Period and the term of the Fee Agreement, and the providing of certain special source revenue credits, to induce the location of the Expansion within the County; and

WHEREAS, pursuant to an Ordinance of even date herewith, the County Council authorized the execution and delivery of this Amendment.

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

1. Section 1.01 of the Fee Agreement is hereby amended to revise the definition of “Threshold Date” and add the definitions of “Infrastructure” and “Special Source Credits,” as follows:

“*Threshold Date*” shall mean December 31 of the tenth year after the year in which any Project Increment is first placed in service.

“*Infrastructure*” shall mean infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of the Project, within the meaning of Section 4-29-68 of the Code.

“*Special Source Credits*” shall mean the annual special source credits provided to the Company pursuant to Section 5.03 hereof.

2. Section 4.01 of the Fee Agreement is hereby deleted and replaced with the following:

Section 4.01 Term.

Subject to the terms and provisions herein contained, with respect to each Project Increment, this Agreement shall be and remain in full force and effect for a term commencing on the date hereof, and ending at midnight on December 31 of the year which is the twenty-ninth (29th) year following the first year in which each Project Increment is placed in service, unless sooner terminated as herein permitted; provided that, if at the expiration of the Term payments of all FILOT Payments under **Section 5.02** hereof relating to the operation of the Project during the Term have not been made, the Term shall expire on such later date as such payments shall have been made in full or so provided for; provided, further, that such extension of the Term shall not increase the number of FILOT payments for which the Company qualifies under **Section 5.02** hereof.

3. Section 5.02(a) of the Fee Agreement is hereby deleted and replaced with the following:

In accordance with the provisions of Section 12-44-50 of the Act, during the Term of this Agreement the Company shall make with respect to the Project annual FILOT Payments in the amounts set forth in this Section at the times and places, and in the same manner and subject to the same penalty assessments as prescribed by the County or the Department for *ad valorem* taxes. Such annual payments shall be made on or before each January 15 of each year during the term of this Agreement, commencing January 15 of the year following the year immediately after the year in which any Project Increment is first placed in service. Subject to the provisions of the Act, each annual payment in lieu of taxes shall be equal to the Project Increment Payment with respect to each Project Increment, including, subject to the provisions of the Act, Replacement Property for the Project originally included in such Project Increment, calculated as set forth in **Section 5.02(b)** hereof, for each of thirty consecutive years (except to the extent that any portion of such Project Increment ceases to qualify for a negotiated fee in lieu of taxes under the Act) commencing with the year following the year in which the respective Project Increments are placed in service.

4. Section 5.03 is hereby added to the Fee Agreement to read as follows:

Section 5.03 Special Source Credits.

(a) In accordance with and pursuant to Section 12-44-70 of the Act and Sections 4-1-175 and 4-29-68 of the Code (the “*MCIP Act*”), in order to reimburse the Company and County, as applicable, for qualifying capital expenditures incurred for costs of the Infrastructure during the Project Period, the Company shall be entitled to receive, and the County agrees to provide, annual Special Source Credits against the Company’s FILOT Payments for a period of ten (10) consecutive years in an amount equal to twenty percent (20%) of that portion of FILOT Payments payable by the Company with respect to the Project (that is, with respect to investment made by the Company in the Project during the Project Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement. The Special Source Credits shall apply beginning with the FILOT Payment due in January 2018 and shall first be payable to the County as reimbursement for the cost of certain road improvements, in the estimated amount of \$300,000, incurred by the County as described in Exhibit C attached hereto. Only after the County has been fully reimbursed for such costs shall the Special Source Credits then be applied to reduce the FILOT Payments due from the Company. The County’s costs of the road improvements shall not include costs reimbursed with other funds (such as utility tax credit grants, South Carolina Department of Commerce grants, and the like).

(b) Notwithstanding anything herein to the contrary, under no circumstances shall the Company be entitled to claim or receive any abatement of *ad valorem* taxes for any portion of the investment in the Project for which a Special Source Credit is taken.

(c) In no event shall the aggregate amount of all Special Source Credits claimed by the Company exceed the amount expended with respect to the Infrastructure at any point in time. The Company shall be responsible for making written annual certification as to compliance with the provisions of the preceding sentence through the delivery of a certification in substantially the form attached hereto as Exhibit D.

(d) Should the Company fail to invest \$55,000,000 in the Project prior to the end of the Project Period, any Special Source Credits otherwise payable under this Fee Agreement shall no longer be payable by the County, and the Company shall be retroactively liable to the County for the amount of the Special Source Credits previously received by the Company, plus interest at the rate payable for late payment of taxes. Any amounts determined to be owing pursuant to the foregoing sentence shall be payable to the County on or before the one hundred twentieth (120th) day following the last day of the Project Period.

(e) As provided in Section 4-29-68 of the Code, to the extent any Special Source Credit is taken against FILOT Payments on personal property, and the personal property is removed from the Project at any time during the term of this Fee Agreement (and not replaced with qualifying replacement property), the amount of the fee in lieu of taxes due on the personal property for the year in which the personal property was removed from the Project shall be due for the two (2) years immediately following such removal.

(f) Each annual Special Source Credit shall be reflected by the County Auditor or other authorized County official or representative on each bill for FILOT Payments sent to the Company by the County for each applicable property tax year, by reducing such FILOT Payments otherwise due by the amount of the Special Source Credit to be provided to the Company for such property tax year (except with respect to the Special Source Credits allocated to the County as described in subparagraph (a) above).

(g) The Special Source Credits are payable solely from the FILOT Payments, are not secured by, or in any way entitled to, a pledge of the full faith, credit or taxing power of the County, are not an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation, are payable solely from a special source that does not include revenues from any tax or license, and are not a pecuniary liability of the County or a charge against the general credit or taxing power of the County.

(h) The County agrees to exercise its best efforts to ensure that the Project remains included in the Multi-County Park Agreement by and between the County and Anderson County, South Carolina dated as of December 31, 2015, or a successor park agreement created pursuant to the Multi-County Park Act, in order to ensure that the Company receives the full benefit of the Special Source Revenue Credits provided hereunder.

5. Exhibits C and D attached hereto shall be incorporated into the Fee Agreement.

6. Except as specifically amended hereby, the Fee Agreement remains in full force and effect.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Amendment to be executed in its name and behalf by the Chairman of County Council and the County Administrator and to be attested by the Clerk of the County Council; and Roy Metals and JPCR have caused this Amendment to be executed by their duly authorized officers, all as of the day and year first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Chairman of County Council

By: _____
County Administrator

ATTEST:

Clerk to County Council of
Greenville County, South Carolina

ROY METAL FINISHING COMPANY, INC.

(SEAL)

By: _____
Name: _____
Title: _____

JPCR, LLC

(SEAL)

By: _____
Name: _____
Title: _____

EXHIBIT C

ROAD IMPROVEMENTS

County of Greenville, SC
Public Works Division

Bracken Road (S-23-27) Turning Lane Improvements

Project Description

Location & Description

The project site is located on Bracken Road (S-23-27) off Old Grove Road (S-23-83) in Greenville County. The contractor shall widen the road and allow for a turning lane. The contractor shall submit to the county the traffic control plan and the location of the staging area. This project is based on a unit price bid; all quantities are estimated. The contractor shall limit the construction disturbance area and will be responsible for restoring to original condition or better. The contractor shall follow SCDOT guide lines as described in SCDOT 2007 Standard Specification for Highway Construction and Greenville County Standards.

Project Scope

Widening Installation

The contractor shall remove and dispose of the vegetation as directed by Engineer. The proposed improvements consist of widening the road to match the intersection with Old Grove Road (S-23-83) by undercutting existing shoulder and building it up with 4" stone, 3" binder and 2" asphalt surface. The contractor shall build a new 4' shoulder. The contractor will be required to establish new ditch, restore disturbed areas, fine grade, seed and mulch.

Clearing, Remove and Dispose

The contractor shall be required to clear and perform the necessary grubbing. Contractor shall also demolish, remove and dispose of all existing vegetation. Any fences or property pins interfering with the work zone shall be marked with (2) offsets then removed and replaced with new once work is completed.

Paving

The contractor shall remove and dispose of all demolished asphalt and concrete. The new roadway shall be constructed by placing 4" stone base, 3" asphalt binder 2" asphalt surface. Driveway cuts will be 3" asphalt binder and 2" asphalt surface.

Erosion Control and Landscaping

The Contractor shall provide erosion control for all disturbed areas. Silt fences and inlet protection will be required to control sediment. The Contractor shall provide fine grading, grassing, and straw mulch as work progresses on private properties and as directed by the County Engineer. The Contractor shall restore immediately the disturbed area by fine grading, seed & straw mulch the area.

Project Duration

The contractor shall be given 45 calendar days, excluding Sundays, to complete this project.

County of Greenville, SC
Public Works Division

Intersection of Old Grove Road and Bracken Road Project

No.	Description	Quantity	Unit	Unit Price	Total
1	Mobilization	1	LS	\$ 5,500.00	\$5,500.00
2	Traffic Control	1	LS	\$ 3,500.00	\$3,500.00
3	Clear and Grub	1	LS	\$ 1,500.00	\$1,500.00
4	Unclassified Excavation	400	CY	\$ 18.00	\$7,200.00
5	Stone Base 4" Uniform	220	Ton	\$ 28.00	\$6,160.00
6	3" Asphalt Binder	200	Ton	\$ 95.00	\$19,000.00
7	2" Asphalt Surface	150	Ton	\$ 95.00	\$14,250.00
8	Establish 4' Shoulder and Ditch	1200	LF	\$ 5.00	\$6,000.00
9	Erosion Control Mat	9500	SY	\$ 1.50	\$14,250.00
10	4" WH SLD. F.D. PNT.	1200	LF	\$ 2.00	\$2,400.00
11	WH WORD "ONLY" MESSAGE F.D. PNT.	1	EA	\$ 700.00	\$700.00
12	4" YEL. SLD LINE F.D. PNT.	2400	LF	\$ 1.50	\$3,600.00
13	Seed and Mulch	1	LS	\$ 1,800.00	\$1,800.00
				Sub Total	\$85,860.00
	Add 5% contingency				\$4,293.00
	TOTAL				\$90,153.00

REV 6-21-2017

All work performed as essential to the completion of the intent of the Contract Documents shall be paid for in accordance with the Bid Schedule. No direct payment will be made for work performed which is not shown as a separate Bid Item. All costs shall be included in the various pay items in the Bid Schedule.

All work includes removal/disposal of existing trees, stumps, vegetation, storm drains, driveways, pavement, etc. impacted by project.

EXHIBIT D

INFRASTRUCTURE INVESTMENT CERTIFICATION

I _____, the _____ of _____ (the “*Company*”), do hereby certify in connection with Section 5.03 of the Fee in Lieu of Tax Agreement dated as of June 1, 2012 between Greenville County, South Carolina and the Company, as amended by that certain Amendment to Fee in Lieu of Tax Agreement dated _____, 2017 (the “*Agreement*”), as follows:

(1) As of the date hereof, the aggregate amount of Special Source Credits previously received by the Company and any Sponsor Affiliates (including Special Source Credits allocated to the County as reimbursement for the costs of road improvements as described in Section 5.03 of the Agreement) is \$_____.

(2) As of December 31, 20__, the aggregate amount of investment in costs of Infrastructure incurred by the Company and any Sponsor Affiliates during the Investment Period (including the costs of road improvements paid for by the County and reimbursed with Special Source Credits) is not less than \$_____.

(3) Of the total amount set forth in (2) above, \$_____ pertains to the investment in personal property, including machinery and equipment, at the Project. The applicable personal property, and associated expenditures, are listed below:

<u>Personal Property Description</u>	<u>Investment Amount</u>
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All capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

IN WITNESS WHEREOF, I have set my hand this ____ day of _____, 20__.

Name: _____

Its: _____