

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE CREDIT AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA AND A COMPANY KNOWN TO THE COUNTY AT THIS TIME AS LUXOR SCIENTIFIC LLC WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL RECEIVE CERTAIN SPECIAL SOURCE CREDITS IN RESPECT OF INVESTMENT IN RELATED INFRASTRUCTURE; AND OTHER MATTERS RELATED THERETO.

WHEREAS, GREENVILLE 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 Title 12, Chapter 44 (the “*FILOT Act*”), Title 4, Chapter 1 (the “*Multi-County Park Act*”), and Title 4, Chapter 29, 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 payment 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, the County is authorized by Section 4-1-175 of the Multi-County Park Act to provide special source credits against payments in lieu of taxes to provide reimbursement to companies in respect of investment in infrastructure enhancing the economic development of the County, including improvements to real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise, within the meaning of Section 4-29-68, Code of Laws of South Carolina 1976, as amended (“*Infrastructure*”); and

WHEREAS, the County Council of Greenville County (“*County Council*”) has agreed to assist Luxor Scientific LLC, a South Carolina limited liability company (the “*Company*”) (formerly known to the County as Project Jay), in the expansion by the Company of a research and development facility in the County (the “*Project*”) by (i) adding the Company to a joint county industrial and business park established by the County with an adjoining South Carolina county pursuant to Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Multi-County Park Act (a “*Park*”) and (ii) pursuant to the Section 4-1-175 of the Multi-County Park Act, providing for certain special source credits against payments in lieu of taxes by the Company from and with respect to the Project in qualified Infrastructure used in the establishment and operation of the Project; and

WHEREAS, the Company has represented that the Project will involve an investment of approximately \$3,000,000 in the County and the expected creation of approximately 50 new, full-time jobs at the Project, within the Investment Period (as such term is defined in the hereinafter defined Special Source Credit Agreement; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, the County Council has agreed, pursuant to Section 4-1-175 of the Multi-County Park Act, to provide special source credit financing of the Infrastructure with respect to the Project by providing a credit to the Company against payments in lieu of taxes for the Project in the Park (the ***“FILOT Payments”***) in an annual amount equal to forty five percent (45%) of the FILOT Payments for the Project in the Park, for a period of five (5) consecutive years, beginning with the FILOT Payment to be first payable on or before the January 15 immediately following the year immediately following the first year in which any portion of the Project is first placed in service for the Project in the Park, all subject to the Company meeting the investment set forth herein, and all as set forth more fully in the Special Source Credit Agreement between the County and the Company presented to this meeting (the ***“Special Source Credit Agreement”***); and

WHEREAS, the County has determined and found, on the basis of representations of the Company, that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and, that 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; that the purposes to be accomplished by the Project, i.e., economic development, retention of jobs, and addition to the tax base of the County, are proper governmental and public purposes;

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Special Source Credit Agreement which the County proposes to execute and deliver; and

WHEREAS, it appears that the Special Sourced Credit Agreement above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered or approved by the County for the purposes intended;

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

Section 1. The Chairman of the County Council and the County Administrator, for and on behalf of the County, are hereby authorized to execute and deliver the Special Source Credit Agreement, in substantially the form attached hereto, or with such minor changes as are not materially adverse to the County and as such officials shall determine and as are not inconsistent with the matters contained herein, and are directed to do anything otherwise necessary to effect the execution and delivery of the Special Source Credit Agreement and the performance of all obligations of the County under and pursuant to the Special Source Credit Agreement.

Section 2. The Chairman of County Council, the County Administrator and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Special Source Credit Agreement and the performance of all obligations of the County thereunder.

Section 3. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 4. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the County Council.

ENACTED in meeting duly assembled this __ day of _____, 2021.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: _____, 2021
Second Reading: _____, 2021
Public Hearing: _____, 2021
Third Reading: _____, 2021

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned Clerk to County Council of Greenville County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received unanimous approval, by the County Council at its meetings of _____, 2021, _____, 2021, and _____, 2021, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

Clerk to County Council,
Greenville County, South Carolina

Dated: _____, 2021