

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE CREDIT AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA, AND KPWT NO LIMIT, LLC, WITH RESPECT TO CERTAIN INVESTMENT IN QUALIFYING INFRASTRUCTURE RELATED TO THE CONSTRUCTION OF A PREDOMINANTLY RESIDENTIAL MIXED-USE PROJECT IN THE COUNTY TO INCLUDE CERTAIN AFFORDABLE AND WORKFORCE HOUSING IN THE COUNTY (THE “PROJECT”), WHEREBY SUCH PROJECT WILL BE SUBJECT TO PAYMENTS IN-LIEU-OF TAXES BY VIRTUE OF ITS LOCATION IN A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK, AND TO APPLICATION OF CERTAIN SPECIAL SOURCE CREDITS; 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 Article VIII, Section 13 of the Constitution of South Carolina 1895, as amended, and Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (collectively, the “*Multi-County Park Act*”), to establish jointly with an adjoining county one or more industrial or business parks (each a “*Park*”), all property having a situs therein being exempt from *ad valorem* taxation such that the owners and lessees of any property situated in such Parks shall make payments in-lieu-of *ad valorem* taxes (“*Fee Payments*”) in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable but for the location of such property in such a Park; and

WHEREAS, the County, acting by and through its County Council, is further authorized and empowered under the Multi-County Park Act, and in particular Section 4-1-175 thereof, to provide credits against the revenues received and retained from Fee Payments made under the Multi-County Park Act for the purposes outlined in Section 4-29-68, Code of Laws of South Carolina 1976, as amended (“*Special Source Credits*”) including, without limitation, for reimbursement in respect of investment in certain infrastructure enhancing the economic development of the County; and

WHEREAS, the County Council has found and determined that, in order for the County to be able to continue to support and attract existing and new industrial and commercial businesses in the County it is essential that there be developed additional affordable and workforce multi-family housing to accommodate the necessary workforce and manpower required; and

WHEREAS, the County Council has found and determined that, through the exercise of the foregoing powers it will be able to incentivize the development of affordable and workforce housing in the County so that there exists sufficient housing for workforce to allow location of new and the expansion of existing industrial and commercial businesses in the County, and through such development the economic development of the County and the State of South Carolina (the “*State*”) will be promoted and trade developed by inducing commercial enterprises to locate or remain in the State, thus utilizing and employing the manpower, products and resources of the State and benefiting the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, the County by and through its County Council adopted that certain Policy Providing Incentives to Induce the Development of Workforce and Affordable Housing on October 18, 2022 (the “*Policy*”), to provide Special Source Credits to projects which reserve at least twenty percent (20%) of their Total Housing Units as Workforce/Affordable Housing Units with the required mix of 40% AMI Housing Units, 60% AMI Housing Units and 80% AMI Housing Units, as such terms are defined in the Special Source Credit Agreement (as defined herein); and

WHEREAS, KPWT No Limit, LLC, a South Carolina limited liability company (the “*Company*”) has represented that it intends to invest in the acquisition, construction and installation of buildings, improvements, fixtures and other real property to constitute a predominantly residential mixed-use project with an affordable/workforce housing component in the County (the “*Project*”), which will result in an expected aggregate investment of approximately \$53,500,000 but not less than \$7,500,000, all by December 31, 2028; and

WHEREAS, the Company has represented that the Project is anticipated to include approximately 139 Total Housing Units, of which it is anticipated that 28 will be Workforce/Affordable Housing Units, and that in no event will the Workforce/Affordable Housing Units represent less than twenty percent (20%) of the Total Housing Units comprising the Project; and

WHEREAS, the County has determined that the Project aligns with and satisfies the requirements of the Policy, and, pursuant to the Multi-County Park Act, the County intends to cause the Project, to the extent not already therein located, to be placed in a Park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, pursuant to the Multi-County Park Act, the County Council has determined it is in the best interests of the County, its citizens and residents for the purposes set forth above to provide certain Special Source Credits to be claimed by the Company against its payments of Fee Payments with respect to the real property and improvements comprising the Project; and

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 with the Company (the “*Special Source Credit Agreement*”); and

WHEREAS, it appears that the Special Source Credit Agreement, which is now before this meeting, is in an 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. Based on information supplied by the Company, it is hereby found, determined and declared by the County Council, as follows:

(a) The County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Multi-County Park Act;

(b) 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;

(c) The Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either;

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

(e) The benefits of the Project are anticipated to be greater than the costs.

(f) The Project, as represented by the Company, is aligned with the Policy.

Section 2. The form, terms and provisions of the Special Source Credit Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Special Source Credit Agreement was set out in this Ordinance in its entirety. The Chairman of County Council and/or the County Administrator are hereby authorized, empowered and directed to execute, acknowledge and deliver the Special Source Credit Agreement in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Special Source Credit Agreement to be delivered to the Company and cause a copy of the same to be delivered to the Greenville County Auditor, Assessor and Treasurer. The Special Source Credit Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the Chairman of County Council and/or County Administrator, upon advice of counsel, such signatory's or signatories' execution thereof to constitute conclusive evidence of approval of any and all changes or revisions therein from the form of Special Source Credit Agreement now before this meeting.

Section 3. 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 4. 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 5. 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.

[signature page follows]

ENACTED in meeting duly assembled this 16th day of January, 2024.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: December 5, 2023
Second Reading: January 2, 2024
Third Reading: January 16, 2024
Public Hearing: January 16, 2024

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 approval, by the County Council at its meetings of December 5, 2023, January 2, 2024, and January 16, 2024, 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: January 16, 2024