
**FEE IN LIEU OF TAX AND
SPECIAL SOURCE CREDIT AGREEMENT**

By and among

GREENVILLE COUNTY, SOUTH CAROLINA,

[PROJECT DOUBLE EAGLE II TENANT],

and

[PROJECT DOUBLE EAGLE II LANDLORD]

Dated as of _____, 2024

TABLE OF CONTENTS

DEFINITIONS 3

SECTION 1.01 DEFINITIONS 3

SECTION 1.02 PROJECT-RELATED INVESTMENTS 6

REPRESENTATIONS, WARRANTIES, AND AGREEMENTS 8

SECTION 2.01 REPRESENTATIONS, WARRANTIES, AND AGREEMENTS OF THE COUNTY 8

SECTION 2.02 REPRESENTATIONS, WARRANTIES, AND AGREEMENTS OF THE TENANT 8

SECTION 2.03 REPRESENTATIONS, WARRANTIES, AND AGREEMENTS OF THE LANDLORD 9

COMMENCEMENT AND COMPLETION OF THE PROJECT 10

SECTION 3.01 THE PROJECT 10

SECTION 3.02 DILIGENT COMPLETION 10

SECTION 3.03 FILINGS AND REPORTS 10

FILOT PAYMENTS..... 12

SECTION 4.01 FILOT PAYMENTS 12

SECTION 4.02 SPECIAL SOURCE CREDITS 13

SECTION 4.03 FAILURE TO ACHIEVE MINIMUM INVESTMENT REQUIREMENTS 14

SECTION 4.04 REMOVAL OF EQUIPMENT 14

SECTION 4.05 FILOT PAYMENTS ON REPLACEMENT PROPERTY 15

SECTION 4.06 REDUCTIONS IN PAYMENT OF TAXES UPON DIMINUTION IN VALUE; INVESTMENT MAINTENANCE REQUIREMENT 15

PARTICULAR COVENANTS AND AGREEMENTS..... 16

SECTION 5.01 CESSATION OF OPERATIONS 16

SECTION 5.02 RIGHTS TO INSPECT 16

SECTION 5.03 CONFIDENTIALITY 16

SECTION 5.04 LIMITATION OF COUNTY’S LIABILITY 16

SECTION 5.05 MERGERS, REORGANIZATIONS AND EQUITY TRANSFERS 17

SECTION 5.06 INDEMNIFICATION COVENANTS 17

SECTION 5.07 QUALIFICATION IN STATE 18

SECTION 5.08 NO LIABILITY OF COUNTY’S PERSONNEL 18

SECTION 5.09 ASSIGNMENT, LEASES OR TRANSFERS 18

SECTION 5.10 ADMINISTRATION EXPENSES 19

SECTION 5.11 PRIORITY LIEN STATUS 19

SECTION 5.12 INTEREST; PENALTIES 19

SECTION 5.13 SPONSOR AFFILIATES 19

DEFAULT..... 21

SECTION 6.01 EVENTS OF DEFAULT 21

SECTION 6.02 REMEDIES UPON DEFAULT 21

SECTION 6.03 REIMBURSEMENT OF LEGAL FEES AND EXPENSES AND OTHER EXPENSES 22

SECTION 6.04 NO WAIVER 22

MISCELLANEOUS..... 23

SECTION 7.01 NOTICES 23

SECTION 7.02 BINDING EFFECT 24

SECTION 7.03 COUNTERPARTS; ELECTRONIC SIGNATURES 24

SECTION 7.04 GOVERNING LAW 24

SECTION 7.05 HEADINGS 24

SECTION 7.06 AMENDMENTS 24
SECTION 7.07 FURTHER ASSURANCE 25
SECTION 7.08 INVALIDITY; CHANGE IN LAWS 25
SECTION 7.09 TERMINATION BY CO-SPONSORS..... 25
SECTION 7.10 ENTIRE UNDERSTANDING 25
SECTION 7.11 WAIVER 26
SECTION 7.12 BUSINESS DAY..... 26

EXHIBIT A – DESCRIPTION OF LAND
EXHIBIT B – INVESTMENT CERTIFICATION
EXHIBIT C – INFRASTRUCTURE INVESTMENT CERTIFICATION

**SUMMARY OF CONTENTS OF
FEE IN LIEU OF TAX AGREEMENT**

As permitted under Section 12-44-55(B), Code of Laws of South Carolina 1976, as amended (the “Code”), the parties have agreed to waive the requirements of Section 12-44-55 of the Code. The following is a summary of the key provisions of this Fee in Lieu of Tax and Special Source Credit Agreement. This summary is inserted for convenience only and does not constitute a part of this Fee in Lieu of Tax and Special Source Credit Agreement or a summary compliant with Section 12-44-55 of the Code.

Company Name:	[PROJECT DOUBLE EAGLE II TENANT] [PROJECT DOUBLE EAGLE II LANDLORD]	Project Name:	Project Double Eagle II
Projected Investment:	\$92,938,000, consisting of: <ul style="list-style-type: none"> • \$17,138,000 by Tenant • \$75,800,000 by Landlord 	Projected Jobs:	150 by Tenant
Location (street):	[INSERT]	Tax Map No.:	[INSERT]
1. FILOT			
Required Investment:	\$74,350,400, consisting of: <ul style="list-style-type: none"> • \$13,710,400 by Tenant • \$60,640,000 by Landlord 		
Investment Period:	Ends 5 years after the Commencement Date	Ordinance No./Date:	[TBD] / [TBD]
Assessment Ratio:	6%	Term (years):	30 years
Fixed Millage:	305.9 mills	Net Present Value (if yes, discount rate):	n/a
Clawback information:	If any Co-Sponsor (as defined below) fails to achieve its respective required investment amount within the Standard Investment Period (as defined below), such Co-Sponsor must pay back the difference between the FILOT Payments (as defined below) and normal taxes plus interest.		
2. MCIP			
Included in an MCIP:	Yes		
If yes, Name & Date:	Park Agreement with Anderson County dated December 1, 2010		
3. SSRC			
Percentage:	45%		
No. of Years	15 years, subject to potential five-year extension as set forth in Section 4.02.		
Clawback information:	If the Co-Sponsors collectively fail to achieve \$83,644,200 of investment within the Standard Investment Period, the Special Source Credits (as defined below) will be terminated on both a retroactive and prospective basis and the Co-Sponsors must pay back all Special Source Credits received to date. Once the required investment of \$83,644,200 is achieved, if the Co-Sponsors collectively fail to maintain at least \$83,644,200 in investment (without regard to depreciation) for any year during the SSRC Period (as defined below), the Special Source Credits will be disallowed for such year.		
4. Other information			

FEE IN LIEU OF TAX AGREEMENT

THIS FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT (this “*Fee Agreement*”) is made and entered into as of _____, 2024 by and among **GREENVILLE COUNTY, SOUTH CAROLINA** (the “*County*”, as further defined below), a body politic and corporate and a political subdivision of the State of South Carolina (the “*State*”), acting by and through the Greenville County Council (the “*County Council*”, as further defined below) as the governing body of the County, [PROJECT DOUBLE EAGLE II TENANT], a _____ organized and existing under the laws of the State of _____ (“*Tenant*” and a “*Co-Sponsor*”), and [PROJECT DOUBLE EAGLE II LANDLORD], a _____ organized and existing under the laws of the State of _____ (“*Landlord*,” a “*Co-Sponsor*” and, together with the Tenant, the “*Co-Sponsors*”).

RECITALS

1. Title 12, Chapter 44 (the “*FILOT Act*”, as further defined below), Code of Laws of South Carolina, 1976, as amended (the “*Code*”), authorizes the County to (a) induce industries to locate in the State; (b) encourage industries now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (c) enter into a fee agreement with entities meeting the requirements of the FILOT Act, which identifies certain property of such entities as economic development property and provides for the payment of a fee in lieu of tax with respect to such property.

2. Sections 4-1-170 and 12-44-70 of the Code authorize the County to provide special source revenue credit (“*Special Source Revenue Credit*”) financing secured by and payable solely from revenues of the County derived from payments in lieu of taxes for the purposes set forth in Section 4-29-68 of the Code, namely: the defraying of 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 but not limited to machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County (collectively, “*Infrastructure*”, as further defined below).

3. The Co-Sponsors (each as a Sponsor, within the meaning of the FILOT Act) desire to provide for the acquisition and construction of the Project (as defined herein) to constitute a new facility in the County for the manufacture of automotive and related products.

4. Based on information supplied by the Co-Sponsors, the County Council has evaluated the Project based on relevant criteria that include, but are not limited to, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created or maintained, and the anticipated costs and benefits to the County. Pursuant to Section 12-44-40(H)(1) of the FILOT Act, the County finds that: (a) 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; (b) the Project will give rise to no pecuniary liability of the County or any incorporated municipality therein and to no charge against their general credit or taxing powers; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

5. The Project is located, or if not so located as of the date of this Fee Agreement the County intends to use its best efforts to so locate the Project, in a joint county industrial or business park created with an adjoining county in the State pursuant to agreement entered into pursuant to Section 4-1-170 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, specifically that certain MCIP

established by the County and Anderson County by entering into that certain Agreement for the Development of a Joint County Industrial and Business Park dated December 1, 2010, as amended.

6. By enactment of an Ordinance on _____, 2024, the County Council has authorized the County to enter into this Fee Agreement with the Co-Sponsors which classifies the Project as Economic Development Property under the FILOT Act and provides for the payment of fees in lieu of taxes and the provision of Special Source Revenue Credits to reimburse the Co-Sponsors for payment of the cost of certain Infrastructure in connection with the Project, all as further described herein.

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

ARTICLE I
DEFINITIONS

Section 1.01 Definitions

The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

“Administration Expenses” shall mean the reasonable and necessary expenses incurred by the County with respect to this Fee Agreement, including without limitation reasonable attorney fees; provided, however, that no such expense shall be considered an Administration Expense until the County has furnished to the Co-Sponsors a statement in writing indicating the amount of such expense and the reason it has been or will be incurred. The Administration Expenses associated with the finalization and approval of this Fee Agreement will be \$6,000.

“Affiliate” shall mean any corporation, limited liability company, partnership or other entity which owns all or part of any Co-Sponsor (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or which is owned in whole or in part by any Co-Sponsor (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or by any partner, shareholder or owner of any Co-Sponsor (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as well as any subsidiary, affiliate, individual or entity who bears a relationship to any Co-Sponsor (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

“Code” shall have the meaning ascribed to it above.

“Commencement Date” shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date shall not be later than the last day of the property tax year which is three (3) years from the year in which the County and the Co-Sponsors enter into this Fee Agreement.

“Condemnation Event” shall mean any act of taking by a public or quasi-public authority through condemnation, reverse condemnation or eminent domain.

“Contract Minimum Investment Requirement” shall mean, with respect to the Project, collective investment by the Co-Sponsors and any Sponsor Affiliates of at least \$74,350,400 (comprised of \$60,640,000 by the Landlord (the **“Landlord Investment Requirement”**) and \$13,710,400 by the Tenant (the **“Tenant Investment Requirement”**), as determined by the original income tax basis thereof (that is, without regard to depreciation), in Economic Development Property subject (non-exempt) to *ad valorem* taxation (in the absence of this Fee Agreement).

“County” shall mean Greenville County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the County Council as the governing body of the County.

“County Administrator” shall mean the Greenville County Administrator, or the person holding any successor office of the County.

“County Assessor” shall mean the Greenville County Assessor, or the person holding any successor office of the County.

“County Auditor” shall mean the Greenville County Auditor, or the person holding any successor office of the County.

“County Council” shall mean Greenville County Council, the governing body of the County.

“County Treasurer” shall mean the Greenville County Treasurer, or the person holding any successor office of the County.

“Defaulting Entity” shall have the meaning set forth for such term in Section 6.02(a) hereof.

“Deficiency Amount” shall have the meaning set forth for such term in Section 4.03(a) hereof.

“Department” shall mean the South Carolina Department of Revenue.

“Diminution in Value” in respect of the Project shall mean any reduction in the value, using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.01 of this Fee Agreement, of the items which constitute a part of the Project and which are subject to FILOT Payments which may be caused by any Co-Sponsor’s or any Sponsor Affiliate’s removal and/or disposal of equipment pursuant to Section 4.04 hereof, or by its election to remove components of the Project as a result of any damage or destruction or any Condemnation Event with respect thereto.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the FILOT Act and this Fee Agreement, and selected and identified by the Co-Sponsors or any Sponsor Affiliate in the annual filing of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

“Equipment” shall mean machinery, equipment, furniture, office equipment, and other tangible personal property, together with any and all additions, accessions, replacements, and substitutions thereto or therefor.

“Event of Default” shall mean any event of default specified in Section 6.01 hereof.

“Exemption Period” shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable portion of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year’s investment made during the Investment Period.

“Fee Agreement” shall have the meaning ascribed to it above.

“FILOT” or **“FILOT Payments”** shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

“FILOT Act” shall mean Title 12, Chapter 44, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“FILOT Act Minimum Investment Requirement” shall mean, with respect to the Project, an investment of at least \$2,500,000 by the Tenant or the Landlord, or a collective investment of at least \$5,000,000 by the Co-Sponsors and any Sponsor Affiliates in the aggregate, in Economic Development Property.

“Improvements” shall mean improvements to the Land, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor.

“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.

“Investment Period” shall mean, and shall be equal to, the Standard Investment Period, provided, however, that if the Co-Sponsors satisfy the Contract Minimum Investment Requirement during the Standard Investment Period, the Tenant shall be entitled to exercise an option to extend the Investment Period for five (5) additional years (so that the Investment Period would end ten (10) years after the Commencement Date) by giving written notice to the County and to the Greenville Area Development Corporation (“GADC”), which notice shall also include the anticipated investment by the Co-Sponsors during the additional five (5) years of the Investment Period. In order to be effective, such written notice shall be provided by the Tenant to the County and to GADC during the fifth (5th) year after the Commencement Date.

“Land” means the land upon which the Project will be located, as described in Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with Section 3.01(c) hereof.

“MCIP” shall mean (i) the joint county industrial park established pursuant to the terms of the MCIP Agreement and (ii) any joint county industrial park created pursuant to a successor park agreement delivered by the County and a partner county in accordance with Section 4-1-170 of the MCIP Act, or any successor provision, with respect to the Project.

“MCIP Act” shall mean Title 4, Chapter 1, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“MCIP Agreement” shall mean the agreement dated as of December 1, 2010, as amended, between the County and Anderson County, South Carolina, as the same may be further amended or supplemented from time to time, or such other agreement as the County may enter with respect to the Project to offer the benefits of the Special Source Revenue Credits to the Co-Sponsors hereunder.

“Phase” or **“Phases”** in respect of the Project shall mean that the components of the Project are placed in service during more than one year during the Investment Period, and the word “Phase” shall therefore refer to the applicable portion of the Project placed in service in a given year during the Investment Period.

“Project” shall mean the Land and all the Equipment and Improvements that the Co-Sponsors determine to be necessary, suitable or useful for the purposes described in Section 2.02(b) hereof, to the extent determined by the Co-Sponsors and any Sponsor Affiliate to be a part of the Project and placed in service during the Investment Period, and any Replacement Property. Notwithstanding anything in this Fee Agreement to the contrary, the Project shall not include property which will not qualify for the FILOT pursuant to Section 12-44-110 of the FILOT Act, including without limitation property which has been subject to *ad valorem* taxation in the State prior to commencement of the Investment Period; provided, however, the Project may include (a) modifications which constitute an expansion of the real property portion of the Project and (b) the property allowed pursuant to Section 12-44-110(2) of the FILOT Act.

“Removed Components” shall mean components of the Project or portions thereof which any Co-Sponsor or any Sponsor Affiliate in its sole discretion, elects to remove from the Project pursuant to Section 4.04 hereof or as a result of any Condemnation Event.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment or any Improvement previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement to the fullest extent that the FILOT Act permits.

“Special Source Credits” shall mean the annual special source credits provided to the Co-Sponsors pursuant to Section 4.02 hereof.

“Sponsor Affiliate” shall mean an entity that joins with the Co-sponsors and that participates in the investment in, or financing of, the Project and which meets the requirements under the FILOT Act to be entitled to the benefits of this Fee Agreement with respect to its participation in the Project, all as set forth in Section 5.13 hereof.

“SSRC Minimum Investment Requirement” shall mean, with respect to the Project, collective investment by the Co-Sponsors and any Sponsor Affiliates of at least \$83,644,200, as determined by the original income tax basis thereof (that is, without regard to depreciation), in Economic Development Property subject (non-exempt) to *ad valorem* taxation (in the absence of this Fee Agreement).

“Standard Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years after the Commencement Date.

“State” shall have the meaning ascribed to it above.

“Termination Date” shall mean, with respect to each Phase of the Project, the end of the last day of the property tax year which is the 29th year following the first property tax year in which such Phase of the Project is placed in service; provided, that the intention of the parties is that the Co-Sponsors will make at least 30 annual FILOT Payments under Article IV hereof with respect to each Phase of the Project; and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date shall mean the date of such termination.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the FILOT Act, as amended or supplemented from time to time, concerning, among other things, the necessity of obtaining County consent to certain transfers.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall include any and all amendments, supplements, addenda, and modifications to such agreement or document.

Section 1.02 Project-Related Investments

The term “investment” as used herein shall include not only investments made by the Co-Sponsors and any Sponsor Affiliates, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Co-Sponsors or any Sponsor Affiliate with respect to the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT Payments by the Co-Sponsors.

[End of Article I]

ARTICLE II

REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.01 Representations, Warranties, and Agreements of the County

The County hereby represents, warrants, and agrees as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Co-Sponsors, the Project constitutes a “project” within the meaning of the FILOT Act.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the FILOT Act and that the Tenant selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in the State.

(d) The millage rate set forth in Step 3 of Section 4.01(a) hereof is 305.9 mills, which is the millage rate in effect with respect to the location of the proposed Project as of June 30, 2023, as permitted under Section 12-44-50(A)(1)(d) of the FILOT Act.

(e) The County will use its reasonable best efforts to cause the Project, to the extent not already located therein, to be located in a MCIP for a term extending at least until the end of the period of FILOT Payments against which a Special Source Credit is to be provided under this Fee Agreement.

Section 2.02 Representations, Warranties, and Agreements of the Tenant

The Tenant hereby represents, warrants, and agrees as follows:

(a) The Tenant is organized and in good standing under the laws of the State of _____, is duly authorized to transact business in the State, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Tenant intends to operate the Project as a “project” within the meaning of the FILOT Act as in effect on the date hereof. Tenant intends to operate the Project for the purpose of manufacturing automotive components and any related purposes, and for such other purposes that the FILOT Act permits as the Tenant may deem appropriate.

(c) The execution and delivery of this Fee Agreement by the County has been instrumental in inducing the Tenant to locate the Project in the County.

(d) The Tenant, together with the Landlord and any Sponsor Affiliates, will use commercially reasonable efforts to meet, or cause to be met the Contract Minimum Investment Requirement within the Investment Period.

Section 2.03 Representations, Warranties, and Agreements of the Landlord

The Landlord hereby represents, warrants, and agrees as follows:

(a) The Landlord is organized and in good standing under the laws of the State of _____, is duly authorized to transact business in the State, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The execution and delivery of this Fee Agreement by the County has been instrumental in inducing the Landlord to locate the Project in the County.

(c) The Landlord, together with the Tenant and any Sponsor Affiliates, will use commercially reasonable efforts to meet, or cause to be met the Contract Minimum Investment Requirement within the Investment Period.

[End of Article II]

ARTICLE III

COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.01 The Project

(a) The Co-Sponsors intend and expect, together with any Sponsor Affiliates, to (i) construct and acquire the Project and (ii) meet their respective investment requirements within the Investment Period. The Tenant additionally intends and expects, together with any Sponsor Affiliates, to create approximately 150 new, full-time jobs (with benefits) within the Investment Period. The Co-Sponsors anticipate that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2024.

(b) Pursuant to the FILOT Act and subject to Section 4.03 hereof, the Co-Sponsors and the County hereby agree that the Co-Sponsors and any Sponsor Affiliates shall identify annually those assets which are eligible for FILOT Payments under the FILOT Act and this Fee Agreement, and which any Co-Sponsor or any Sponsor Affiliate selects for such treatment by listing such assets in its annual PT-300S form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary notwithstanding, any Co-Sponsor and any Sponsor Affiliates shall not be obligated to complete the acquisition of the Project. However, if the Co-Sponsors, together with any Sponsor Affiliates, do not meet their respective investment requirements or the FILOT Act Minimum Investment Requirement within the Investment Period, the provisions of Section 4.02(d) and 4.03 hereof shall control as to any Co-Sponsor not meeting its investment requirement.

(c) Any Co-Sponsor may add to the Land such real property, located in the same taxing District in the County as the original Land, as such Co-Sponsor in its discretion, deems useful or desirable. In such event, such Co-Sponsor, at its expense, shall deliver to all parties to this Fee Agreement an appropriately revised Exhibit A to this Fee Agreement, in form reasonably acceptable to the County.

Section 3.02 Diligent Completion

The Co-Sponsors agree to use reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.03 Filings and Reports

(a) Each year during the term of this Fee Agreement, the Co-Sponsors and any Sponsor Affiliates shall deliver to the County Administrator, the County Auditor, the County Assessor and the County Treasurer a copy of their most recent annual filings with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department.

(b) The Tenant shall cause a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor, and to their counterparts in the partner county to the MCIP Agreement, the County Administrator and the Department within thirty (30) days after the date of execution and delivery of this Fee Agreement by all parties hereto.

(c) Each of the Co-Sponsors and any Sponsor Affiliates agree to maintain complete books and records accounting for the acquisition, financing, construction, and operation of the Project. Such

books and records shall (i) permit ready identification of the various Phases and components thereof; (ii) confirm the dates on which each Phase was placed in service; and (iii) include copies of all filings made by the Co-Sponsors and any such Sponsor Affiliates in accordance with Section 3.03(a) or (b) above with respect to property placed in service as part of the Project.

[End of Article III]

ARTICLE IV
FILOT PAYMENTS

Section 4.01 FILOT Payments

(a) Pursuant to Section 12-44-50 of the FILOT Act, the Co-Sponsors and any Sponsor Affiliates, as applicable, are required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Co-Sponsors anticipate an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the FILOT Act, the County and the Co-Sponsors have negotiated the amount of the FILOT Payments in accordance therewith. The Co-Sponsors and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Co-Sponsors and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual FILOT Payments shall be in accordance with the following procedure (subject, in any event, to the procedures required by the FILOT Act):

Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using original income tax basis for State income tax purposes for any real property and Improvements without regard to depreciation (provided, the fair market value of real property, as the FILOT Act defines such term, that the Co-Sponsors and any Sponsor Affiliates obtain by construction or purchase in an arms-length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value is by appraisal) and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The fair market value of the real property for the first year of the Exemption Period remains the fair market value of the real property and Improvements for the life of the Exemption Period. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Co-Sponsors and any Sponsor Affiliates if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the FILOT Act specifically disallows.

Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 29 years thereafter or such longer period of years in which the FILOT Act and this Fee Agreement permit the Co-Sponsors and any Sponsor Affiliates to make annual FILOT Payments.

Step 3: Use a millage rate of 305.9 mills during the Exemption Period against the taxable value to determine the amount of the FILOT Payments due during the Exemption Period on the applicable payment dates.

(b) In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Act and/or the herein-described FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof (without increasing the amount of incentives being afforded herein) and so as to afford the Co-Sponsors and any Sponsor Affiliates with the benefits to be derived herefrom, the intention of the County being to offer the Co-Sponsors and such Sponsor Affiliates a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Co-Sponsors and any Sponsor Affiliates shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Co-Sponsors and such Sponsor Affiliates. Any amount determined to be due and owing to the County from the Co-Sponsors and such Sponsor Affiliates, with respect to a year or years for which the Co-Sponsors or such Sponsor Affiliates previously remitted FILOT Payments to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Co-Sponsors or such Sponsor Affiliates would be entitled if the Economic Development Property was not and had not been Economic Development Property under the Act; and (ii) be reduced by the total amount of FILOT Payments the Co-Sponsors or such Sponsor Affiliates had made with respect to the Project pursuant to the terms hereof.

Section 4.02 Special Source Credits

(a) In accordance with and pursuant to Section 12-44-70 of the FILOT Act and Section 4-1-175 of the MCIP Act, in order to reimburse the Co-Sponsors for qualifying capital expenditures incurred for costs of Infrastructure during the Standard Investment Period, the Co-Sponsors shall be entitled to receive, and the County agrees to provide, annual Special Source Credits against the Co-Sponsors' FILOT Payments for a period of fifteen (15) consecutive years (the "**SSRC Period**") in an amount equal to forty-five percent (45%) of that portion of FILOT Payments payable by the Co-Sponsors with respect to the Project (that is, with respect to investment made by the Co-Sponsors in the Project during the Standard Investment Period), calculated and applied after payment of the amount due the non-host county under the MCIP Agreement. If the SSRC Minimum Investment Requirement is met by the end of the Standard Investment Period, the SSRC Period shall automatically be extended by five years for a total period of twenty (20) years.

(b) In no event shall the aggregate amount of all Special Source Credits claimed by the Co-Sponsors exceed the amount expended with respect to Infrastructure at any point in time. The Tenant 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 C.

(c) Should the SSRC Minimum Investment Requirement not be met by the end of the Standard Investment Period, any Special Source Credits otherwise payable under this Fee Agreement shall no longer be payable by the County and the Co-Sponsor(s) shall be retroactively liable to the County for the amount of the Special Source Credits previously received, 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 Investment Period.

(d) If, after the close of the Standard Investment Period but during the SSRC Period, the aggregate investment, as determined by the original income tax basis thereof (that is, without regard to depreciation) maintained by the Co-Sponsors and any Sponsor Affiliates at the Project falls below the SSRC Minimum Investment Requirement for any tax year, any Special Source Credits otherwise payable under this Fee Agreement for that tax year shall be disallowed and no longer payable by the County. For the avoidance of doubt, if the aggregate investment maintained by the Co-Sponsors and any Sponsor

Affiliates at the Project later rises to or above the SSRC Minimum Investment Requirement for any tax years during the SSRC Period, any Special Source Credits otherwise payable under this Fee Agreement for that tax year shall be restored and shall be payable by the County.

(e) As provided in Section 4-29-68 of the Code, to the extent any Special Source Credit is taken against fee in lieu of tax payment 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 Co-Sponsors 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 Co-Sponsors for such property tax year.

(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.

Section 4.03 Failure to Achieve Minimum Investment Requirements

(a) In the event the Co-Sponsors, together with any Sponsor Affiliates, fail to meet either the Landlord Investment Requirement or the Tenant Investment Requirement by the end of the Investment Period, this Fee Agreement shall terminate with respect to any Co-Sponsor not achieving its respective portion of the Contract Minimum Investment Requirement and such Co-Sponsor(s) and such Sponsor Affiliate(s) shall pay the County an amount which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which such Co-Sponsor(s) and such Sponsor Affiliate(s) would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of FILOT Payments such Co-Sponsor(s) and such Sponsor Affiliate(s) have made with respect to the Economic Development Property (after taking into account any Special Source Credits received) (such excess, a “**Deficiency Amount**”) for the period through and including the end of the Investment Period. 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 Investment Period.

(b) As a condition to the FILOT benefit provided herein, the Tenant agrees to provide the County Administrator, the County Assessor, the County Auditor and the County Treasurer with an annual certification as to investment in the Project. Such certification shall be in substantially the form attached hereto as Exhibit B, and shall be due no later than the May 1 following the immediately preceding December 31 of each year during the Investment Period.

Section 4.04 Removal of Equipment

Subject, always, to the other terms and provisions of this Fee Agreement, the Co-Sponsors and any Sponsor Affiliates shall be entitled to remove and dispose of components of the Project from the

Project in their sole discretion with the result that said components shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement. Economic Development Property is disposed of only when it is scrapped or sold or removed from the Project. If it is removed from the Project, it is subject to *ad valorem* property taxes to the extent the Economic Development Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.05 FILOT Payments on Replacement Property

If the Co-Sponsors or any Sponsor Affiliate elect to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Co-Sponsors or any Sponsor Affiliate otherwise utilize Replacement Property, then, pursuant and subject to the provisions of Section 12-44-60 of the FILOT Act, the Co-Sponsors or such Sponsor Affiliate shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(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 Economic Development Property subject to the FILOT, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development 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 annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is entitled to treatment under this Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the FILOT shall be recorded using its income tax basis, and the calculation of the FILOT shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the FILOT.

Section 4.06 Reductions in Payment of Taxes Upon Diminution in Value; Investment Maintenance Requirement

In the event of a Diminution in Value of the Economic Development Property, the FILOT Payment with regard to the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property as determined pursuant to Step 1 of Section 4.01(a) hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project remaining in the County based on the original income tax basis thereof (that is, without regard to depreciation), is less than the FILOT Act Minimum Investment Requirement, then beginning with the first payment thereafter due hereunder and continuing until the Termination Date, the Project shall no longer be entitled to the incentive provided in Section 4.01, and the Co-Sponsors and any Sponsor Affiliate shall therefore commence to pay regular *ad valorem* taxes thereon, calculated as set forth in Section 4.01(b) hereof.

[End of Article IV]

ARTICLE V

PARTICULAR COVENANTS AND AGREEMENTS

Section 5.01 Cessation of Operations

Notwithstanding any other provision of this Fee Agreement, each of the Co-Sponsors and any Sponsor Affiliates acknowledges and agrees that the County's obligation to provide the FILOT incentive may end, and this Fee Agreement may be terminated by the County, at the County's sole discretion, if the Tenant ceases operations at the Project; provided, however, that the Special Source Credits provided for in this Fee Agreement shall automatically terminate solely with respect to the Tenant if the Tenant ceases operations as set forth in this Section 5.01. For purposes of this Section, "ceases operations" means closure of the facility or the cessation of production and shipment of products to customers for a continuous period of twelve (12) months. The provisions of Section 4.03 hereof relating to retroactive payments shall apply, if applicable, if this Fee Agreement is terminated in accordance with this Section prior to the end of the Investment Period. Each of the Co-Sponsors and any Sponsor Affiliates agree that if this Fee Agreement is terminated pursuant to this subsection, that under no circumstance shall the County be required to refund or pay any monies to the Co-Sponsors or any Sponsor Affiliates.

Section 5.02 Rights to Inspect

The Co-Sponsors agree that the County and its authorized agents shall have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice, to have access to examine and inspect the Co-Sponsors' South Carolina property tax returns, as filed. The aforesaid rights of examination and inspection shall be exercised only upon such reasonable and necessary terms and conditions as the Co-Sponsors shall prescribe, and shall be subject to the provisions of Section 5.03 hereof.

Section 5.03 Confidentiality

The County acknowledges and understands that the Co-Sponsors and any Sponsor Affiliates may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (herein "**Confidential Information**"). In this regard, the Co-Sponsors and any Sponsor Affiliates may clearly label any Confidential Information delivered to the County "Confidential Information." The County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall disclose or otherwise divulge any such clearly labeled Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law. Each of the Co-Sponsors and any Sponsor Affiliates acknowledge that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. In the event that the County is required to disclose any Confidential Information obtained from the Co-Sponsors or any Sponsor Affiliates to any third party, the County agrees to provide the Co-Sponsors and such Sponsor Affiliates with as much advance notice as is reasonably possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Co-Sponsors and such Sponsor Affiliates to obtain judicial or other relief from such disclosure requirement.

Section 5.04 Limitation of County's Liability

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 (it being intended herein that any obligations of the County with respect to the Special Source Revenue Credits shall be payable only from FILOT Payments received from or payable by the Co-Sponsors or any Sponsor Affiliates); provided, however, that nothing herein shall prevent the Co-Sponsors from enforcing their rights hereunder by suit for *mandamus* or specific performance.

Section 5.05 Mergers, Reorganizations and Equity Transfers

Each of the Co-Sponsors and any Sponsor Affiliates acknowledges that any mergers, reorganizations or consolidations of the Co-Sponsors and such Sponsor Affiliates may cause the Project to become ineligible for negotiated fees in lieu of taxes under the FILOT Act absent compliance by the Co-Sponsors and such Sponsor Affiliates with the Transfer Provisions; provided that, to the extent provided by Section 12-44-120 of the FILOT Act or any successor provision, any financing arrangements entered into by the Co-Sponsors or any Sponsor Affiliates with respect to the Project and any security interests granted by the Co-Sponsors or any Sponsor Affiliates in connection therewith shall not be construed as a transfer for purposes of the Transfer Provisions. Notwithstanding anything in this Fee Agreement to the contrary, it is not intended in this Fee Agreement that the County shall impose transfer restrictions with respect to the Co-Sponsors, any Sponsor Affiliates or the Project as are any more restrictive than the Transfer Provisions.

Section 5.06 Indemnification Covenants

(a) Notwithstanding any other provisions in this Fee Agreement or in any other agreements with the County, the Co-Sponsors agree to indemnify, defend and save the County, its County Council members, elected officials, officers, employees, servants and agents (collectively, the “Indemnified Parties”) harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on the Project or the Land by the Co-Sponsors or any Sponsor Affiliate, their members, officers, shareholders, employees, servants, contractors, and agents during the term of this Fee Agreement, and, the Co-Sponsors further, shall indemnify, defend and save the Indemnified Parties harmless against and from all claims arising during the term of this Fee Agreement from (i) entering into and performing its obligations under this Fee Agreement, (ii) any condition of the Project, (iii) any breach or default on the part of the Co-Sponsors or any Sponsor Affiliate in the performance of any of its obligations under this Fee Agreement, (iv) any act of negligence of the Co-Sponsors or any Sponsor Affiliate or its agents, contractors, servants, employees or licensees, (v) any act of negligence of any assignee or lessee of the Co-Sponsors or any Sponsor Affiliate, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Co-Sponsors or any Sponsor Affiliate, or (vi) any environmental violation, condition, or effect with respect to the Project. The Co-Sponsors shall indemnify, defend and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County, the Co-Sponsors shall defend it in any such action, prosecution or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld).

(b) Notwithstanding the fact that it is the intention of the parties that the Indemnified Parties shall not incur pecuniary liability by reason of the terms of this Fee Agreement, or the undertakings required of the County hereunder, by reason of the granting of the FILOT, by reason of the execution of this Fee Agreement, by the reason of the performance of any act requested of it by the Co-Sponsors or any Sponsor Affiliate, or by reason of the County’s relationship to the Project or by the operation of the Project by the Tenant or any Sponsor Affiliate, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County or any of the other Indemnified Parties should incur any such pecuniary liability, then in such

event the Co-Sponsors shall indemnify, defend and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Co-Sponsors shall defend them in any such action or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld); provided, however, that such indemnity shall not apply to the extent that any such claim is attributable to (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Fee Agreement by the County.

(c) Notwithstanding anything in this Fee Agreement to the contrary, the above-referenced covenants insofar as they pertain to costs, damages, liabilities or claims by any Indemnified Party resulting from any of the above-described acts of or failure to act by the Co-Sponsors or any Sponsor Affiliate, shall survive any termination of this Fee Agreement.

Section 5.07 Qualification in State

Each of the Co-Sponsors and any Sponsor Affiliates warrant that it is duly qualified to do business in the State, and covenants that it will continue to be so qualified so long as it operates any portion of the Project.

Section 5.08 No Liability of County's Personnel

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 shall be binding upon any member of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any elected official, officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any elected official, officer, agent, servant or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

Section 5.09 Assignment, Leases or Transfers

The County agrees that the Co-Sponsors and any Sponsor Affiliates may at any time (a) transfer all or any of their rights and interests under this Fee Agreement or with respect to all or any part of the Project, or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing or other entity with respect to this Fee Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Co-Sponsors or any Sponsor Affiliate or operates such assets for the Co-Sponsors or any Sponsor Affiliate or is leasing the portion of the Project in question from the Co-Sponsors or any Sponsor Affiliate. In order to preserve the FILOT benefit afforded hereunder with respect to any portion of the Project so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to an Affiliate of any Co-Sponsor or of any Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the Co-Sponsors and any Sponsor Affiliates, as applicable, shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County in its sole discretion; (ii) except when 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 financing entity assumes in writing the obligations of the Co-Sponsors or any Sponsor Affiliate, as the case may be, hereunder, or when the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Co-Sponsors and any Sponsor Affiliates hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make FILOT Payments hereunder, the transferee shall assume the then current basis of, as the case may be, any Co-Sponsors or any Sponsor Affiliates (or prior transferee) in the portion of the Project transferred; (iv) the Co-Sponsors or applicable Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department a true and complete copy of any such transfer agreement; and (v) the Co-Sponsors, the Sponsor Affiliates and the transferee shall comply with all other requirements of the Transfer Provisions.

Subject to County consent when required under this Section, and at the expense of the Co-Sponsors or any Sponsor Affiliate, as the case may be, the County agrees to take such further action or execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Co-Sponsors or such Sponsor Affiliate under this Fee Agreement and/or any release of the Co-Sponsors or such Sponsor Affiliate pursuant to this Section.

Each of the Co-Sponsors and any Sponsor Affiliates acknowledges that such a transfer of an interest under this Fee Agreement or in the Project may cause all or part of the Project to become ineligible for the FILOT benefit afforded hereunder or result in penalties under the FILOT Act absent compliance by the Co-Sponsors and any Sponsor Affiliates with the Transfer Provisions.

Section 5.10 Administration Expenses

The Tenant agrees to pay any Administration Expenses to the County when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is forty-five (45) days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's or Indemnified Party's right to receive such payment, specifying the nature of such expense and requesting payment of same.

Section 5.11 Priority Lien Status

The County's right to receive FILOT Payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the FILOT Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code.

Section 5.12 Interest; Penalties

In the event the Co-Sponsors or any Sponsor Affiliate should fail to make any of the payments to the County required under this Fee Agreement, then the item or installment so in default shall continue as an obligation of the Co-Sponsors or such Sponsor Affiliate until the Co-Sponsors or such Sponsor Affiliate shall have fully paid the amount, and the Co-Sponsors and any Sponsor Affiliates agree, as applicable, to pay the same with interest thereon at a rate, unless expressly provided otherwise herein and in the case of FILOT Payments, of 5% per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT Payments, at the rate for non-payment of *ad valorem* taxes under State law and subject to the penalties the law provides until payment.

Section 5.13 Sponsor Affiliates

The Co-Sponsors may designate from time to time any Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(20) and 12-44-130 of the FILOT Act, which Sponsor Affiliates shall join with the Co-Sponsors and make investments with respect to the Project, or participate in the financing of such investments, and shall agree to be bound by the terms and provisions of this Fee Agreement pursuant to the terms of a written joinder agreement with the County and the Co-Sponsors, in substantially the form attached hereto as **Exhibit D**. The Co-Sponsors shall provide the County and the Department with written notice of any Sponsor Affiliate designated pursuant to this Section within ninety (90) days after the end of the calendar year during which any such Sponsor Affiliate has placed in service any portion of the Project, in accordance with Section 12-44-130(B) of the FILOT Act.

[End of Article V]

ARTICLE VI

DEFAULT

Section 6.01 Events of Default

The following shall be “Events of Default” under this Fee Agreement, and the term “Event of Default” shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Co-Sponsors or any Sponsor Affiliate to make the FILOT Payments described in Section 4.01 hereof, or any other amounts payable to the County under this Fee Agreement when due, which failure shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; provided, however, that the Co-Sponsors and any Sponsor Affiliates shall be entitled to all redemption rights granted by applicable statutes; or

(b) A representation or warranty made by the Co-Sponsors or any Sponsor Affiliate hereunder which is deemed materially incorrect when deemed made; or

(c) Failure by the Co-Sponsors or any Sponsor Affiliate to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of thirty (30) days after written notice from the County to the Co-Sponsors and such Sponsor Affiliate specifying such failure and requesting that it be remedied, unless the Co-Sponsors or such Sponsor Affiliate shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Co-Sponsors or such Sponsor Affiliate is diligently pursuing corrective action; or

(d) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of thirty (30) days after written notice from any Co-Sponsor to the County and any Sponsor Affiliates specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 6.02 Remedies Upon Default

(a) Whenever any Event of Default by any Co-Sponsor or any Sponsor Affiliate (the “Defaulting Entity”) shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions as to the Defaulting Entity, only:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder.

In no event shall any Co-Sponsor or any Sponsor Affiliate be liable to the County or otherwise for monetary damages resulting from such Co-Sponsor’s (together with any Sponsor Affiliates) failure to meet the Contract Minimum Investment Requirement other than as expressly set forth in this Fee Agreement.

In addition to all other remedies provided herein, the failure to make FILOT Payments shall give rise to a lien for tax purposes as provided in Section 12-44-90 of the FILOT Act. In this regard, and notwithstanding anything in this Fee Agreement to the contrary, the County may exercise the remedies that general law (including Title 12, Chapter 49 of the Code) provides with regard to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Co-Sponsors and any Sponsor Affiliate may take one or more of the following actions:

- (i) bring an action for specific enforcement;
- (ii) terminate this Fee Agreement as to the acting party; or
- (iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 6.03 Reimbursement of Legal Fees and Expenses and Other Expenses

Upon the occurrence of an Event of Default hereunder by the Co-Sponsors or any Sponsor Affiliate, should the County be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 6.04 No Waiver

No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

[End of Article VI]

ARTICLE VII
MISCELLANEOUS

Section 7.01 Notices

Any notice, election, demand, request, or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

If to the Tenant:

Attn: _____

With a copy to:

Madison Felder
Parker Poe Adam & Bernstein LLP
110 East Court Street, Suite 200
Greenville, South Carolina 29601

If to the Landlord:

Attn: _____

With a copy to:

Whit McGreevy
Womble Bond Dickinson (US) LLP
5 Exchange Street
PO Box 999 (29402)
Charleston, SC 29401

If to the County:

Greenville County
Attn: County Administrator
301 University Ridge, N-4000
Greenville, South Carolina 29601

With a copy to:

Greenville County Attorney
301 University Ridge, N-4000
Greenville, South Carolina 29601

If to GADC:

Greenville Area Development Corporation
301 University Ridge, N-4300
Greenville, South Carolina 29601

Section 7.02 Binding Effect

This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Co-Sponsors and any Sponsor Affiliates, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 7.03 Counterparts; Electronic Signatures

This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument. This Fee Agreement may be circulated for signature through electronic transmission, including, without limitation, facsimile and email, and all signatures so obtained and transmitted shall be deemed for all purposes under this Fee Agreement to be original signatures and may conclusively be relied upon by any party to this Fee Agreement.

Section 7.04 Governing Law

This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 7.05 Headings

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

Section 7.06 Amendments

The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 7.07 Further Assurance

From time to time, and at the expense of any Co-Sponsor and any Sponsor Affiliate, the County agrees to execute and deliver to the Co-Sponsors and any such Sponsor Affiliates such additional instruments as the Co-Sponsors or such Sponsor Affiliates may reasonably request and as are authorized by law and reasonably within the purposes and scope of the FILOT Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 7.08 Invalidity; Change in Laws

In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the FILOT Act, to the extent not inconsistent with any of the explicit terms hereof. If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Co-Sponsors and any Sponsor Affiliates with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Co-Sponsors and any Sponsor Affiliates the strongest inducement possible, within the provisions of the FILOT Act, to locate the Project in the County. In case a change in the FILOT Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Co-Sponsors and any Sponsor Affiliates and the FILOT incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, and, if the County Council so decides, to provide the Co-Sponsors and any Sponsor Affiliates with the benefits of such change in the FILOT Act or South Carolina laws.

Section 7.09 Termination by Co-Sponsors

Each Co-Sponsor is authorized to partially terminate this Fee Agreement at any time with respect to their respective portion of the Project upon providing the County with thirty (30) days' written notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto (including without limitation any amounts owed with respect to Section 4.03 hereof); and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to *ad valorem* taxation or such other taxation or fee in lieu of taxation that would apply absent this Fee Agreement. Such Co-Sponsor obligation to make FILOT Payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 7.10 Entire Understanding

This Fee Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and no party hereto has made or shall be bound by any agreement or any representation to any other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery hereof; provided, however, that this Fee Agreement shall not supersede the obligations of the Tenant and the Landlord to each other pursuant to that certain Agreement of Lease by and between the Landlord and the Tenant and dated as of March 28, 2024.

Section 7.11 Waiver

Any party may waive compliance by any other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

Section 7.12 Business Day

In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

[End of Article VII]

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 Chairman of County Council and the County Administrator and to be attested by the Clerk of the County Council; and each Co-Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, 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

[Signature Page 1 to Fee in Lieu of Tax and Special Source Credit Agreement]

[PROJECT DOUBLE EAGLE II TENANT]

By: _____
Its: _____

[Signature Page 2 to Fee in Lieu of Tax and Special Source Credit Agreement]

[PROJECT DOUBLE EAGLE II LANDLORD]

By: _____
Its: _____

[Signature Page 3 to Fee in Lieu of Tax and Special Source Credit Agreement]

EXHIBIT A

LEGAL DESCRIPTION

[Insert legal description here]

EXHIBIT B

INVESTMENT CERTIFICATION

I _____, the _____ of PROJECT DOUBLE EAGLE II TENANT], a _____ organized and existing under the laws of the State of _____ (“*Tenant*” and a “*Co-Sponsor*”), do hereby certify in connection with Section 4.03 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 2024 between Greenville County, South Carolina, the Tenant, and the [PROJECT DOUBLE EAGLE II LANDLORD], a _____ organized and existing under the laws of the State of _____ (“*Landlord*,” a “*Co-Sponsor*” and, together with the Tenant, the “*Co-Sponsors*”), (the “*Agreement*”), as follows:

(1) The total investment made by the Co-Sponsors and any Sponsor Affiliates in the Project during the calendar year ending December 31, 20__ was \$ _____.

(2) The cumulative total investment made by the Co-Sponsors and any Sponsor Affiliates in the Project from the period beginning _____, 20__ (that is, the beginning date of the Investment Period) and ending December 31, 20__, is \$ _____.

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: _____

EXHIBIT C

INFRASTRUCTURE INVESTMENT CERTIFICATION

I _____, the _____ of PROJECT DOUBLE EAGLE II TENANT], a _____ organized and existing under the laws of the State of _____ (“*Tenant*” and a “*Co-Sponsor*”), do hereby certify in connection with Section 4.02 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of _____, 2024 between Greenville County, South Carolina, Tenant, and [PROJECT DOUBLE EAGLE II LANDLORD], a _____ organized and existing under the laws of the State of _____ (“*Landlord*,” a “*Co-Sponsor*” and, together with the Tenant, the “*Co-Sponsors*”), (the “*Agreement*”), as follows:

(1) As of the date hereof, the aggregate amount of Special Source Revenue Credits previously received by the Co-Sponsors and any Sponsor Affiliates is \$_____.

(2) As of December 31, 20__, the aggregate amount of investment in costs of Infrastructure incurred by the Co-Sponsors and any Sponsor Affiliates during the Investment Period is not less than \$_____.

(3) **[Use only if expenditures for personal property will be used to account for Special Source Revenue Credits.]** 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:

Personal Property Description

Investment Amount

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: _____

EXHIBIT D

JOINDER AGREEMENT

Reference is hereby made to (i) that certain Fee in Lieu of Tax and Special Source Credit Agreement (the “Fee Agreement”) by and among Greenville County, South Carolina (“County”), [PROJECT DOUBLE EAGLE II TENANT], a _____ organized and existing under the laws of the State of _____ (“*Tenant*” and a “*Co-Sponsor*”), and [PROJECT DOUBLE EAGLE II LANDLORD], a _____ organized and existing under the laws of the State of _____ (“*Landlord*,” a “*Co-Sponsor*” and, together with the Tenant, the “*Co-Sponsors*”), dated as of _____, 2024.

1. Joinder to Fee Agreement.

The undersigned hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement; (b) acknowledges and agrees that (i) in accordance the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Co-Sponsors for purposes of the Project and such designation has been consented to by the County in accordance with the Act (as defined in the Fee Agreement); (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(A)(19) and Section 12-44-130 of the Act; and (iii) the undersigned shall have all of the rights and obligations of a Sponsor Affiliate as set forth in the Fee Agreement.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Fee Agreement.

3. Governing Law.

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of choice of law.

4. Notice.

Notices under Section 7.01 of the Fee Agreement shall be sent to:

IN WITNESS WHEREOF, the undersigned have executed this Joinder Agreement to be effective for tax year 20____ and all subsequent tax years.

Date

[PROJECT DOUBLE EAGLE II TENANT]

By: _____

Its: _____

[PROJECT DOUBLE EAGLE II LANDLORD]

By: _____

Its: _____

IN WITNESS WHEREOF, the Co-Sponsors consent to the addition of the above-named entity becoming a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

[ENTITY NAME]

By: _____

Its: _____

IN WITNESS WHEREOF, the County consents to the addition of the above-named entity becoming a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

GREENVILLE COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Chairman of County Council

By: _____
County Administrator

ATTEST:

Clerk to County Council of
Greenville County, South Carolina