

**RICHLAND COUNTY**  
**COUNTY COUNCIL AGENDA**



**Tuesday, OCTOBER 19, 2021**

**6:00 PM**

**COUNCIL CHAMBERS**

# RICHLAND COUNTY COUNCIL 2021



Bill Malinowski  
District 1  
2018-2022



Derrek Pugh  
District 2  
2020-2024



Yvonne McBride  
District 3  
2020-2024



Paul Livingston  
District 4  
2018-2022



Allison Terracio  
District 5  
2018-2022



Joe Walker III  
District 6  
2018-2022



Gretchen Barron  
District 7  
2020-2024



Overture Walker  
District 8  
2020-2024



Jessica Mackey  
District 9  
2020-2024



Cheryl English  
District 10  
2020-2024



Chakisse Newton  
District 11  
2018-2022





Richland County Council

Regular Session  
October 19, 2021 - 6:00 PM  
Council Chambers  
2020 Hampton Street, Columbia, SC 29201

1. **CALL TO ORDER**

The Honorable Paul Livingston,  
Chair Richland County Council

  - a. ROLL CALL
2. **INVOCATION**

The Honorable Jesica Mackey
3. **PLEDGE OF ALLEGIANCE**

The Honorable Jesica Mackey
4. **PRESENTATION OF RESOLUTIONS**

The Honorable Derrek Pugh  
The Honorable Gretchen Barron

  - a. Resolution recognizing Chris Cowan for his service to Richland County
  - b. A Proclamation recognizing the 175th Homecoming Celebration of Main Street United Methodist Church
5. **APPROVAL OF MINUTES**

The Honorable Paul Livingston

  - a. Regular Session: October 5, 2021 [PAGES 9-25]
6. **ADOPTION OF AGENDA**

The Honorable Paul Livingston
7. **REPORT OF THE ACTING COUNTY ATTORNEY FOR EXECUTIVE SESSION ITEMS**

Elizabeth McLean,  
Acting County Attorney

*After Council returns to open session, Council may take action on any item, including any subsection of any section, listed on an executive session agenda or discussed in an executive session during a properly noticed meeting.*

- a. Convention Center MOU

**8. CITIZEN'S INPUT**

The Honorable Paul Livingston

- a. For Items on the Agenda Not Requiring a Public Hearing

**9. CITIZEN'S INPUT**

The Honorable Paul Livingston

- a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at time.)

**10. REPORT OF THE COUNTY ADMINISTRATOR [PAGES 26-47]**

Leonardo Brown,  
County Administrator

- a. COVID-19 Update
- b. Project Updates
- c. Personnel Matter – Grievance Reviews and Recommendations

**11. REPORT OF THE INTERIM CLERK OF COUNCIL**

Michelle Onley,  
Interim Clerk of Council

- a. Sponsorship Opportunity: Jazz at Lincoln Center Orchestra with Wynton Marsalis "Big Band Holidays", December 9 -10, 2021, Koger Center [PAGES 48-52]

**12. REPORT OF THE CHAIR**

The Honorable Paul Livingston

**13. APPROVAL OF CONSENT ITEMS**

The Honorable Paul Livingston

- a. 21-022MA  
Frank McMaster  
RU to GC (8.76 Acres)  
Barbara Drive  
TMS # R17109-02-06 [THIRD READING] [PAGES 53-54]
- b. 21-025MA  
Matthew Condon  
RU to RM-HD (5.94 Acres)  
9569 & 9579 Farrow Road  
TMS # R17400-09-05, 06 & 07 [THIRD READING]  
[PAGES 55-56]
- c. 21-027MA  
Chip Goforth  
RU to RC (3.35 Acres)

- d. Authorizing the issuance of General Obligation Bonds in one or more series, tax-exempt or taxable, in an amount not to exceed \$40,000,000 for the purpose of acquiring, constructing, equipping, rehabilitating and improving a Public Safety Complex; authorizing the County Administrator to prescribe the details of the issuance and sale of the bonds and the form and details of the bonds, providing for the disposition of the proceeds of the bonds and the payment of the bonds, and other related matters [SECOND READING] [PAGES 59-83]
- e. An Ordinance making certain changes to Article I, Chapter 16 of the Code of Ordinances of Richland County relating to business licensing and regulation [SECOND READING] [PAGES 84-103]

#### **14. SECOND READING ITEMS**

The Honorable Paul Livingston

- a. An Ordinance Amending the Richland County Code of Ordinances, so as to adopt the Richland County Land Development Code Rewrite; and to replace Chapter 26, Land Development [PAGES 104-106]
- b. An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 2, Competitive Purchasing Policy; Section 2-612, Same--Purchase Negotiations; so as to change the requirements regarding residential Solid Waste Collection vendors [PAGES 107-109]
- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement, and amendment of that certain existing fee-in-lieu of ad valorem agreement, by and between Richland County, South Carolina and Project Tide; to provide for payments of fees-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [PAGES 110-150]
- d. An Ordinance authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Remedy to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [PAGES 151-184]

#### **15. REPORT OF RULES & APPOINTMENTS COMMITTEE**

The Honorable Bill Malinowski

**a. NOTIFICATION OF VACANCIES [PAGES 185-186]**

1. a. Accommodations Tax – Seven (7) Vacancies (TWO applicants must have a background in the lodging industry, THREE applicants must have a background in the hospitality industry, ONE (1) applicant must have a cultural background and ONE (1) applicant will fill an At-large seat)
- b. Airport Commission – One (1) Vacancy ( The applicant must reside within one mile of the airport: Rosewood, Shandon or Hollywood-Rose Wales Garden neighborhoods)
- c. Board of Assessment Appeals – One (1) Vacancy
- d. Board of Zoning Appeals – Two (2) Vacancies
- e. Building Codes Board of Appeals – Six (6) Vacancies (ONE applicant must be from the Architecture Industry, ONE from the Gas Industry, ONE from the Building Industry, ONE from the Contracting Industry & TWO from Fire Industry as alternates)
- f. Business Service Center – Two (2) Vacancies (ONE applicant must be from the Business Industry and ONE applicant must be CPAs)
- g. Central Midlands Council of Governments – One (1) Vacancy
- h. Community Relations Council – One (1) Vacancy
- i. Employee Grievance Committee – One (1) Vacancy (MUST be a Richland County employee; 1 seat is an alternate)
- j. Hospitality Tax – Three (3) Vacancies (ONE applicant must be from the Restaurant Industry)
- k. Internal Audit Committee – Two (2) Vacancies (applicant with CPA preferred)
- l. Music Festival – One (1) Vacancy
- m. Planning Commission – Three (3) Vacancies
- n. Richland Memorial Hospital Board of Trustees – Two (2) Vacancies
- o. Township Auditorium – Two (2) Vacancies
- p. Transportation Penny Advisory Committee (TPAC) – Five (5) Vacancies

**b. ITEMS FOR ACTION**

1. I move that if matters such as Clerk to Council Search or Compensation for Interim Clerk of Council are to be a part of the Employee Evaluation Oversight Ad Hoc Committee that the name of the Ad Hoc Committee be changed to

better reflect what would fall under the purview of its function, responsibility, and/or purpose [MANNING - October 20, 2020] **[PAGE 187]**

2. All County Council contracts and agreements adopted by a majority vote of full Council will require a majority vote of full Council to amend and/or change [NOTE: This motion should be taken up as soon as possible, and not be addressed with the overall Council Rules update.] [LIVINGSTON - July 13, 2021] **[PAGES 188]**
3. Boards, Committees and Commissions Recruitment **[PAGES 189-190]**
  - a. Direct the Rules Committee to determine which Richland County Boards, Committees and Commissions should have as a qualification that the person applying must reside in the unincorporated area of Richland County only. There are some of these positions where other municipalities appoint individuals and if a person applying for one of those positions resides in that municipality then they should make application through them [MALINOWSKI – October 6, 2020]
  - b. Based on the fact the Planning Commission makes decisions that affect unincorporated Richland County only, members assigned must reside in unincorporated Richland County [MALINOWSKI - September 21, 2021]

**16. EXECUTIVE SESSION**

*After Council returns to open session, Council may take action on any item, including any subsection of any section, listed on an executive session agenda or discussed in an executive session during a properly noticed meeting.*

**17. MOTION PERIOD**

**18. ADJOURNMENT**



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.





Richland County Council  
Regular Session  
September 21, 2021 – 6:00 PM  
Council Chambers  
2020 Hampton Street, Columbia, SC 29201

COMMITTEE MEMBERS PRESENT: Paul Livingston Chair, Yvonne McBride Vice-Chair, Bill Malinowski, Derrek Pugh, Allison Terracio, Gretchen Barron, Overture Walker, Jesica Mackey, Cheryl English, and Chakisse Newton

OTHERS PRESENT: Kyle Holsclaw, Michelle Onley, Tamar Black, Ashiya Myers, Dale Welch, Justin Landy, Lori Thomas, Leonardo Brown, John Thompson, Aric Jensen, Elizabeth McLean, Bill Davis, Dante Roberts, Michael Maloney, James Hayes, Jennifer Wladischkin, Stacey Hamm, Jeff Ruble, Shane Kitchen, John Ansell, Zachary Cavanaugh, Quinton Epps and David Bertolini

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00 PM.
2. **INVOCATION** – The Invocation was led by the Honorable Cheryl English
3. **PLEDGE OF ALLEGIANCE** – The pledge of Allegiance was led by the Honorable Cheryl English

**APPROVAL OF MINUTES**

4. a. **Regular Session: September 21, 2021** – Ms. Terracio moved, seconded by Ms. English, to approve the minutes as distributed.

In Favor: Malinowski, Pugh, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker and McBride

The vote in favor was unanimous.

- b. **Zoning Public Hearing: September 28, 2021**
- c. **Special Called Meeting: September 28, 2021**

Mr. O. Walker moved, seconded by Mr. Pugh, to approve Items 4(b) and (c), as distributed.

Ms. Newton noted, on the Zoning Public Hearing minutes, her vote was recorded incorrectly for the “Land Development Code” item. She requested the minutes to be corrected to reflect she voted in opposition of this item.

In Favor: Malinowski, Pugh, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker and McBride

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The vote in favor was unanimous.

5. **ADOPTION OF AGENDA** – Mr. Pugh moved, seconded by Ms. Barron, to adopt the agenda as published.

In Favor: Pugh, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton.

Not Present: J. Walker and McBride

The vote in favor was unanimous.

6. **REPORT OF THE ACTING COUNTY ATTORNEY FOR EXECUTIVE SESSION ITEMS** - Ms. McLean stated the following items were appropriate for Executive Session:

- a. **Landfill Property Acquisition**
- b. **Personnel Matter: County Attorney**

7. **CITIZENS' INPUT**

- a. **For Items on the Agenda Not Requiring a Public** – No one signed up to speak.

8. **CITIZENS' INPUT**

- a. **Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time)**—Ms. Sabria Phillips spoke regarding the death of her son, Jaden.

9. **REPORT OF THE COUNTY ADMINISTRATOR**

- a. **Coronavirus Update** – Mr. Brown stated the COVID-19 in Richland County have been trending down. There are 658 confirmed cases, per 100,000, which still puts us in the high tier rate. The percent positive is at 6.5%, which is also down. The number of vaccinated individuals in Richland County is 54.6%, and 51.9% in the State.

To date, the County has approved \$3.8M of ERA (2) funding to assist 720 applicants.

- b. **Project Updates** – Additional information will be provided at the October 19<sup>th</sup> Council meeting.

10. **REPORT OF THE INTERIM CLERK OF COUNCIL**

- a. **2022 Council Meeting Calendar** – Ms. Onley stated the 2022 Council meeting calendar is included in the agenda packet, and requested Council take action.

Mr. Malinowski moved, seconded by Ms. Terracio, to approve the 2022 Council meeting calendar.

Ms. Terracio requested the Council meeting dates, as well as the SCAC Annual Conference, be placed on Council's calendar.

Ms. Onley responded in the affirmative.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

- b. **2022 Council Retreat** – Ms. Onley requested Council provide their feedback to the Clerk’s Office on a location and date for the 2022 Council Retreat. She noted the typical date would be January 27 – 28, and she has received a suggestion to hold the Retreat at the Township Auditorium.

11. **REPORT OF THE CHAIR**

- a. **Personnel Matter: County Attorney** – This item was taken up in Executive Session.

12. **OPEN/CLOSE PUBLIC HEARINGS**

- a. **Approving the lease and sale of certain real property located in and owned by Richland County; authorizing the execution and delivery of a lease agreement with Mangus Development Partners, LLC and other matters related thereto** – No one signed up to speak.

13. **APPROVAL OF CONSENT ITEMS**

- a. **21-022MA, Frank McMaster, RU to GC (8.76 Acres), Barbara Drive, TMS # R17109-02-06 [SECOND READING]**
- b. **21-025MA, Matthew Condon, RU to RM-HD (5.94 Acres) 9569 & 9579 Farrow Road, TMS # R17400-09-05, 06 & 07 [SECOND READING]**
- c. **21-027MA, Chip Goforth, RU to RC (3.35 Acres), 7742 Bluff Road, TMS # R32403-02-04 & 05 [SECOND READING]**
- d. **Division of Solid Waste & Recycling – Solid Waste Management Plan**
- e. **Treasurer’s Office – Federal Forestry Funds**
- f. **Coroner’s Office – Professional Pathology Services**
- g. **Waverly Magistrate Lease Agreement**
- h. **Public Defender Lease Agreement**
- i. **Public Defender Position**
- j. **Authorizing the issuance and General Obligation Bonds in one or more series, tax-exempt or taxable, in an amount not to exceed \$40,000,000 for the purpose of acquiring, constructing, equipping, rehabilitating and improving a Public Safety Complex; authorizing the County Administrator to prescribe the details of the issuance and sale of bonds and the form and details of the bonds, providing for the disposition of the proceeds of the bonds and the payment of the bonds, and other related matters [FIRST READING]**

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k. **Alvin S. Glenn Detention Center – Award of Fire and Security Control Maintenance Contract**

l. **An Ordinance making certain changes to Article I, Chapter 16 of the Code of Ordinances of Richland County relating to business licensing and regulation [FIRST READING]**

Ms. Mackey moved, seconded by O. Walker, to approve the Consent Items.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

Ms. Barron moved, seconded by Mr. O. Walker, to reconsider Items 13(d), (e), (f), (g), (h), (i), (k), and (m).

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The motion for reconsideration failed.

14. **THIRD READING ITEMS**

a. **21-010MA, Kevin Steelman, PDD to PDD, 8930 Rabbit Run, TMS # R21800-01-06** – Ms. Terracio moved, seconded by Mr. O. Walker, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

b. **21-018MA, DR Horton, RU to RS-E (94 Acres), Hard scrabble Road, TMS # R14600-03-17(p)** – Ms. Barron moved, seconded by Mr. Pugh, to approve this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

c. **Approving the lease and sale of certain real property located in and owned by Richland County; authorizing the execution and delivery of a lease agreement with Magnus Partners, LLC and other matters related thereto** – Ms. McBride moved, seconded by Ms. Barron, to approve

this item.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

Ms. Barron moved, seconded by Ms. Newton, to reconsider this item.

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The motion for reconsideration failed.

- d. **An Ordinance authorizing the levying of ad valorem property taxes which together with the prior year's carryover and other State levies and any additional amount appropriated by the Richland County Council prior to July 1, 2021 will provide sufficient revenues for the operation of Richland County Government during the period from July 1, 2021 through June 30, 2022** – Ms. McBride moved, seconded by Ms. Barron, to approve this item.

In Favor: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Opposed: Malinowski

Not Present: J. Walker

The vote was in favor.

Ms. Barron moved, seconded by Ms. Newton, to reconsider this item.

In Favor: Malinowski

Opposed: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The motion for reconsideration failed.

15. **REPORT OF THE ADMINISTRATION AND FINANCE COMMITTEE**

- a. **Ordinance Amendment, Chapter 2, Administration, Purchase Negotiations** – Mr. Malinowski stated the committee recommended Council approve staff's recommendation to change the cap on Solid Waste Collection Area contracts from two (2) to three (3) for high performing collections contractors.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and

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Newton

Not Present: J. Walker

The vote in favor was unanimous.

16. **REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE**

- a. **Committing to negotiate a fee-in-lieu of ad valorem taxes agreement between Richland County and Project Tide; identifying the project; and other matters related thereto** – Ms. McBride stated the committee recommended approval of the resolution.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

- b. **Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement, and amendment of that certain existing fee-in-lieu of ad valorem agreement, by and between Richland County, South Carolina and Project Tide, to provide for payments of fees-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [FIRST READING]** – Ms. McBride stated Project Tide is an existing manufacturer of steel pipe that is considering a \$46M expansion, and the creation of 100 new full-time jobs over the next 5 years. The County proposed to negotiate a 30-year FILOT with a fixed millage and 6% assessment ratio. The committee recommends approval.

Ms. Terracio inquired about the average salary.

Mr. Ruble responded the average salary is \$26.75/hr.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

- c. **Committing to negotiate a fee-in-lieu of ad valorem taxes agreement between Richland County and Project Remedy; identifying the project; and other matters related thereto** – Ms. McBride stated the committee recommended approval of the resolution.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

Ms. McBride moved, seconded by Ms. Barron, to reconsider this item.

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The motion for reconsideration failed.

- d. **An Ordinance authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Remedy to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [FIRST READING]** – Ms. McBride stated Project Remedy is an existing manufacturer of customized water treatment processes that is considering a \$3.6M expansion, which will lead to the creation of 17 new full-time jobs. The County proposes to negotiate a 30-year FILOT with a fixed millage, and a 6% assessment ratio. The committee recommends approval.

Ms. Terracio inquired about the average salary.

Mr. Ruble responded the average salary is over \$20/hr.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

- e. **A Resolution approving the 2021 Assessment Roll for the Village at Sandhill Improvement District, Richland County, South Carolina** – Ms. McBride stated the committee recommended approval of this item.

Mr. Malinowski noted there is a mathematical error on p. 393, and ACA Thomas will ensure the numbers are corrected.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

The vote in favor was unanimous.

Ms. McBride moved, seconded by Ms. Terracio, to reconsider this item.

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

The motion for reconsideration failed.

## 17. **REPORT OF RULES & APPOINTMENTS COMMITTEE**

### a. **NOTIFICATION OF APPOINTMENTS**

1. **Employee Grievance Committee – Two (2) Vacancies (Must be a Richland County employee; 1 seat is an alternate)** – Mr. Malinowski stated the committee recommends appointing Ms. Meghan Easler to the Employee Grievance Committee.

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In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

2. **Transportation Penny Advisory Committee (TPAC) – Six (6) Vacancies** – Mr. Malinowski stated the committee recommends appointing Ms. Eva Young Prioleau.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

3. **Township Auditorium – Two (2) Vacancies** – Mr. Malinowski noted the applicant withdrew their application.

4. **Procurement Review Panel – Two (2) Vacancies (one applicant must be from the public procurement arena & one applicant must be from the consumer industry)** – Mr. Malinowski stated the committee recommends appointing Ms. Tina Green to fill the consumer industry vacancy.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

**b. ITEMS FOR ACTION**

1. **I move to amend the Public Nuisance Ordinance to define “Public Places/Establishments” to include restaurants, taverns, lodges, parking lots, and public places where children or students attend and/or normally congregate [DICKERSON]** – Mr. Malinowski stated, after discussion with Legal, it was determined this is addressed in the current ordinance. The committee’s recommendation is to take no additional action.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.



18. **REPORT OF TRANSPORTATION AD HOC COMMITTEE**

- a. **Clemson Rd. Sidewalk Phase I Contingency** – Mr. O. Walker stated this is a request to approve an additional 10% contingency amount for the Clemson Road Sidewalk Phase I Project. The requested amount is \$26,990, which will bring the total contract to \$323,880. The additional funds will come from the \$37,260 available in current unencumbered construction funds.

In Favor: Pugh, McBride, Livingston, Barron, O. Walker, Mackey and English

Opposed: Malinowski, Terracio and Newton

Not Present: J. Walker

The vote was in favor.

- b. **Dirt Road Package L** – Mr. O. Walker stated this is a request to approve the award of Dirt Road Package L to Palmetto Sitework Services in the amount of \$584,681.99, with a 15% contingency of \$87,702.29 for a total of \$672,384.28.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

- c. **Lower Richland Rescope** – Mr. O. Walker stated, when this project was de-scoped in 2020, it was re-scoped to evaluate the traffic along the roadway. This was done because a gas station was built at the intersection of Lower Richland Boulevard and Garner’s Ferry Road. During the construction, the lanes at the intersection were altered and the usages changed. The County requested the OET to evaluate the new configuration, and provide a recommendation on what the scope of the project should be. The original referendum amount was \$6.1M. The new estimate is \$8.1M. Based on the assessment of the data, staff is recommending approval of Alternative #3.

Ms. Newton requested to hold public information meetings, since there has been some changes to the project.

Mr. Livingston inquired, based on the SCDOR ruling, does the County still do public information meetings.

Mr. Brown responded public information is paid from the General Fund.

Ms. McBride stated, for clarification, it is possible for the County to pay for public information, even Transportation Penny projects.

Mr. Brown responded the County, using its funds, can pay for increased public information.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

- d. **Mitigation Credit Sales – Encompass Health Rehabilitation Hospital** – Mr. O. Walker stated this is a request to approve mitigation credit sales to Encompass Health. If approved, this will generate \$92,136.47, which will be credited to the Transportation Penny Program. The committee recommended approval.

In Favor: Malinowski, McBride, Livingston, Terracio, Barron, O. Walker, Mackey and English

Opposed: Newton

Abstain: Pugh (Hospital is his wife’s parent company)

Not Present: J. Walker

The vote was in favor.

Mr. Livingston inquired about the value of the remaining credits.

Mr. Epps responded he does not have the exact numbers. The value fluctuates over time due to market forces.

Mr. O. Walker moved, seconded by Ms. McBride, to reconsider Items 18(a) – (d).

Ms. Newton made a substitute motion, seconded by Mr. Pugh, to reconsider Items 18(a) – (c).

In Favor: Malinowski

Opposed: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The motion for reconsideration failed.

Mr. O. Walker moved, seconded by Ms. McBride, to reconsider Item 18(d).

In Favor: Newton

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey and English

Not Present: J. Walker

The motion for reconsideration failed.

19. **REPORT OF THE CORONAVIRUS AD HOC COMMITTEE**

- a. **Community Outreach and Awareness Efforts:**

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1. **Incentive Program** – Ms. Barron stated the Committee recommended Council approve implementation of a pilot program by October 30th to incentivize the vaccination program, and to coordinate with the University of South Carolina and The Meeting Place to incentivize vaccination to 250 persons with a \$100 debit gift card.

Mr. Malinowski stated, while he supports the vaccination, he believes this is rewarding people for something they need to make a decision on themselves. This is not fair to those who have already received their vaccination.

Mr. Malinowski made a substitute motion that the first 250 persons who show up at this location, with proof of vaccination, can get the \$100 gift card.

The substitute motion died for lack of a second.

Ms. McBride noted there have been a number of successful incentive programs. She offered a friendly amendment to include a follow-up initiative on November 19th, and give the Administrator the flexibility to vaccinate up to 500 persons.

Ms. Barron stated, for clarification, the additional outreach is at the same location.

Ms. McBride responded in the affirmative. This will also allow for other pop-up events throughout Richland County.

Ms. Barron stated her concern is this is intended to be a pilot program, and then moving it to other portions of the County. She would not want us to expend all the funds in one location.

Ms. McBride stated her amendment was to allow the pilot program to go to the other districts.

Mr. Brown stated, for clarification, the committee's motion was to allow for collaboration with the University of South Carolina and the Meeting Place Church for an event on October 30<sup>th</sup>, which would allow for 250 persons to become vaccinated and receive a \$100 gift card.

Ms. McBride noted her intent was to vaccinate as many persons as possible before the holidays.

Mr. Livingston suggested moving forward with the pilot, and allow the Administrator to come back to Council after the event with a recommendation.

Mr. Malinowski inquired which pot of money the incentives are coming from.

Mr. Brown responded the funds are coming from the American Rescue Plan.

Ms. McBride withdrew her amendment.

In Favor: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Opposed: Malinowski

Not Present: J. Walker

The vote was in favor.

**b. American Rescue Plan Funding:**

1. **Premium Pay** – Ms. Barron stated Council previously approved premium pay for one set of the County’s employees. The committee is recommending an additional \$1,250 for employees who worked in-person on a modified schedule during the pandemic, using ARP funding.

Mr. Malinowski inquired if the County will be providing a stipend to Richland County volunteer firefighters.

Mr. Brown responded they are working with one of our firms to receive guidance on this matter. He noted we have the ability to bring this back to the committee if we get confirmation we can provide stipends to the volunteers.

Mr. Malinowski also requested reserve deputies to be considered.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

2. **Safety and Security Equipment** – Ms. Barron stated the committee is recommending Council to approve the use of ARP funds to purchase equipment for the health and safety of employees and the population of Alvin S. Glenn Detention Center.

Mr. Malinowski noted, on p. 468, it states, it is to “Minimize public contact with employees entering facility to ensure staff availability.” He stated he finds it hard to believe staff members are going straight from home to work, and are not out and about in the community. He does not see why they need a separate parking lot. It was recommended to rope off an area for employee parking, similar to 2020 Hampton Street.

Mr. Brown stated the individuals coming out of the Detention Center are generally not the same individuals we have coming into the Administration Building, so the security is necessary. These are recommendations from the Risk Management Office, Detention Center and Sheriff’s Department.

Ms. Newton stated, during the committee meeting, several Councilmembers expressed concern about the inclusion of Tasers. She noted she supports promoting safety for the detainees and staff, but she feels uncomfortable voting in favor of Tasers.

Mr. Brown responded, looking at similar sized detention centers, the officers carry OC Spray, which is a foam spray or Tasers. All of the facilities have either a chemical agent and/or Tasers as a part of the security equipment for the detention officers. He noted these detention centers have policies in place.

Ms. Newton inquired about Richland County’s policies, training and how the process is going to work.

Mr. Brown responded the officers do have to be trained before they can carry the Tasers. Mr. Kitchen noted there is currently a training program in place. There is also a standing policy, which will be reviewed to ensure it is up-to-date.

Ms. Terracio inquired about the number of supervisors that currently carry Tasers.

Mr. Kitchen responded there are 4 supervisors certified to carry Tasers.

Ms. Terracio inquired, if this item were approved, how many officers would be allowed to carry.

Mr. Kitchen responded there will be approximately 20.

Ms. Terracio stated she has been informed there could be a need for communication equipment prior to the purchase of Tasers.

Ms. McBride stated she has concerns regarding the use of Tasers in the Detention Center. The use of Tasers is a very controversial issue, and could cause serious harm in the hands of someone that is not well-trained. Detention officers are not usually well-trained in law enforcement activities. It is her understanding, Tasers have been misused. There have been numerous lawsuits and, in most cases, it was found Tasers were inappropriately used. She suggested utilizing other means. She does not believe there are frequent "riots" at the Detention Center. She inquired about the number of violent offenders are detained in the County's Detention Center.

Mr. Kitchen responded the majority of the detainees are violent offenders.

Ms. McBride noted there are a disproportionate number of African American and poor detainees.

Ms. Barron stated she would like to amend the motion to remove the Tasers and include communication equipment, such as radios, or items that staff deems necessary.

Mr. Pugh stated we need to consider those that are working in these environments, and not what we think they need. In speaking with some law enforcement individuals, the incident at the Detention Center could have been defused faster if we had Tasers in place. He noted they are already short-staffed and we need to ensure we take care of the "heroes".

Mr. Livingston noted, he is not a jail expert, with this issue he is more concerned about explaining what he wants, not to tell you how to do it. He wants what staff thinks will provide safety and security for the employees and detainees.

Ms. McLean noted she believes Council needs to vote on the committee's recommendation, and do a separate motion if the committee's recommendation is voted down.

Ms. McBride stated she supports staff, but she also supports the citizens of Richland County, who are detained. She noted she evaluates staff's recommendation, and based on her evaluation, she determines if she can support the recommendation. She inquired if we have gotten any input on what is going on inside the detention facilities. It was suggested to implement programs to address the morale issues.

Ms. English inquired about how extensive the Taser training is, and if it includes conflict resolution or de-escalation.

Mr. Kitchen responded the training does include conflict resolution and de-escalation.

Ms. Barron re-stated the committee's recommendation was to approve the use of ARP funds to purchase equipment for the health and safety of employees and the population of Alvin S. Glenn Detention Center. She noted there is a list of recommended items on p. 468 of the agenda.

Mr. Malinowski noted the recommendation is for facility-wide security cameras (exterior and interior) and body cameras for contact tracing. He inquired why we need two (2) items for contact tracing.

Mr. Brown responded the body cameras allow the interaction, when you have staff members who are coming into specific contact. The general cameras would capture multiple personnel.

Mr. Malinowski inquired if we would not see the interaction on the general cameras.

Mr. Brown responded not with the same availability of equipment. With the body cameras you could view the audio and video directly.

Mr. Malinowski inquired where the \$400,000/yr. will come from in the future.

Mr. Brown responded it will likely come from the General Fund.

Ms. Terracio made substitute motion, seconded by Ms. McBride, to remove the Tasers from the recommendation, and approve the remaining recommendation from the committee.

Ms. Mackey stated, for clarification, Ms. McLean previously indicated we have to act on the committee's recommendation prior to making a substitute motion.

Ms. McLean responded, in the past, Council has not made a motion, but acted upon the committee's recommendation. Council could make a different/substitute motion if the committee's recommendation failed. She indicated she is not in charge of how Council votes. If Council feels a substitute motion is in order, you can proceed.

Ms. Mackey indicated it would seem to her that Council should act upon the committee's recommendation first.

In Favor: Malinowski, Pugh, Livingston, Barron, O. Walker and English

Opposed: McBride, Terracio, Mackey and Newton

Not Present: J. Walker

The vote was in favor of the committee's recommendation.

Ms. Barron moved, seconded by Mr. O. Walker, to reconsider this item.

Ms. Terracio stated Council was forced to vote on the whole package, without the ability to pull out something. When items are on the Consent Agenda, Council can pull out certain things and vote, or not vote.

**Regular Session  
October 5, 2021**

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Mr. Livingston responded Ms. Terracio could have made a motion to pull the item out.

Ms. McBride stated she questioned the legality of the committee's recommendation. It was her understanding we were going to take each item individually. She would have never supported the package, as is.

In Favor: Malinowski, McBride, Terracio, Barron, Mackey and Newton

Opposed: Pugh, Livingston, O. Walker and English

Not Present: J. Walker

The vote was in favor of reconsideration.

**POINT OF PERSONAL PRIVILEGE** – Ms. Barron stated she did not expect this was going to go this way. It appears in the past we did things differently, and our hands was forced to make a decision. As the Chair of this committee, she stands by staff's recommendation, but she also has some concerns about some of the items listed in the packet. If we had another opportunity to pull some things out, she would feel more comfortable.

Ms. Terracio moved, seconded by Ms. Barron, to remove the Tasers from the recommendation, and approve the remaining recommendation from the committee.

Mr. Brown addressed the wording of the committee's recommendation, which states, "The Committee recommended Council approve the use of ARP funds to purchase equipment for the health and safety of the employees and population of Alvin S. Glenn Detention Center." Staff listed an itemized list of equipment that included funding. He noted each item is separate, and not a package, so it is not all or nothing.

Mr. Malinowski made a substitute motion to vote on each item individually.

The substitute motion died for lack of a second.

Ms. English inquired if the motion included communication devices.

Ms. Terracio responded she would be hesitant to include those without speaking to staff and determining a price. She suggested bringing the matter to the Detention Center Ad Hoc Committee for further discussion.

In Favor: Pugh, McBride, Terracio, Barron, Mackey and Newton

Opposed: Malinowski, Livingston, O. Walker and English

Not Present: J. Walker

The vote was in favor.

Ms. McBride moved, seconded by Ms. Terracio, to reconsider this item.

In Favor: Malinowski, Pugh, Livingston and English  
Opposed: McBride, Terracio, Barron, O. Walker, Mackey and Newton

The motion for reconsideration failed.

20. **OTHER ITEMS**

a. **FY22 - District 5 Hospitality Tax Allocations**

b. **FY22 - District 7 Hospitality Tax Allocations**

Ms. Newton moved, seconded by Ms. Barron, to approve items 20 (a) and (b)

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

Ms. Newton moved, seconded by Mr. Pugh, to reconsider Items 20(a) and (b)

Opposed: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The motion for reconsideration failed.

21. **EXECUTIVE SESSION** – Ms. Barron moved, seconded by Ms. Terracio, to go into Executive Session.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

***The Council went into Executive Session at approximately 7:47 PM  
And came out at approximately 9:20 PM***

Ms. English moved, seconded by Ms. Barron, to come out of Executive Session.

In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

a. **Landfill Property Acquisition** – Mr. Malinowski moved, seconded by Mr. O. Walker, to give the Administrator authority to negotiate.

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In Favor: Malinowski, Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The vote in favor was unanimous.

- b. **Personnel Matter: County Attorney** – Ms. Newton moved, seconded by Ms. Mackey, to direct the Chair to execute the agreement, per the terms discussed in Executive Session.

In Favor: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Opposed: Malinowski

Not Present: J. Walker

The vote was in favor.

Ms. McBride moved, seconded by Ms. Newton, to reconsider this item.

In Favor: Malinowski

Opposed: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

The motion for reconsideration failed.

## 22. **MOTIONS PERIOD**

- a. **Any contract, IGA, or other document that needs council approval for continuation of service must be provided to Council with all background 2 months prior to expiration [MALINOWSKI]**  
– Mr. Livingston referred this item to the Rules and Appointments Committee.

Ms. Barron moved, seconded by Ms. Mackey, to reconsider Items 19 (a)(1) and 19 (b)(1).

In Favor: Malinowski

Opposed: Pugh, McBride, Livingston, Terracio, Barron, O. Walker, Mackey, English and Newton

Not Present: J. Walker

The motion for reconsideration of Items 19 (a)(1) and 19 (b)(1) failed.

23. **ADJOURNMENT** – The meeting adjourned at approximately 9:25 PM



## Report of the County Administrator

Regular Session Meeting – October 19, 2021

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### CORONAVIRUS UPDATE:

#### 1. COVID 19 Statistical Data for Current Reporting Period

\*Incidence Rate for current reporting period is at 386.3 per 100,000 putting

Richland County's Level of Incidence in the High Tier (>200), for confirmed cases

\*Percent Positive is 5.6% for current reporting period

55.9% of Richland County residents eligible to be vaccinated have completed their vaccination

197,405/353,173

53.5% of South Carolina residents eligible to be vaccinated have completed their vaccination

2,298,304/4,296,148

#### Who Is Eligible for a Pfizer COVID-19 Vaccine Booster Shot?

COVID-19 vaccine booster shots are available for the following **Pfizer-BioNTech** vaccine recipients who completed their initial series at least 6 months ago and are:

- 65 years and older
- Age 18+ who live in [long-term care settings](#)
- Age 18+ who have [underlying medical conditions](#)
- Age 18+ who [work in high-risk settings](#)
- Age 18+ who [live in high-risk settings](#)

#### Data Supporting Need for a Booster Shot

Studies show that after getting vaccinated against COVID-19, **protection against the virus may decrease** over time and be less able to protect against the Delta variant. Although COVID-19 vaccination for adults aged 65 years and older remains effective in preventing severe disease, [recent data](#) suggest vaccination is less effective at preventing infection or milder illness with symptoms.

Emerging evidence also shows that among healthcare and other frontline workers, vaccine effectiveness against COVID-19 infections is decreasing over time. This lower effectiveness is likely due to the combination of decreasing protection as time passes since getting vaccinated (e.g., waning immunity) as well as the greater infectiousness of the Delta variant.

Data from a small clinical trial show that a Pfizer-BioNTech **booster shot increased the immune response** in trial participants who finished their primary series 6 months earlier. With an increased immune response, people should have improved protection against COVID-19, including the Delta variant.

### **Booster Shots Are Only Available for Some Pfizer-BioNTech Vaccine Recipients**

Only certain populations initially vaccinated with the Pfizer-BioNTech vaccine can get a booster shot at this time.

#### **Older adults and 50-64 year old people with medical conditions**

**People aged 65 years and older and adults 50–64 years with underlying medical conditions should get a booster shot of Pfizer-BioNTech vaccine.** The risk of severe illness from COVID-19 [increases with age](#), and can also increase for adults of any age with [underlying medical conditions](#).

#### **Long-term care setting residents aged 18 years and older**

**Residents aged 18 years and older of long-term care settings should get a booster shot of Pfizer-BioNTech vaccine.** Because residents in [long-term care settings](#) live closely together in group settings and are often older adults with underlying medical conditions, they are at increased risk of infection and severe illness from COVID-19.

#### **People with medical conditions aged 18-49 years**

**People aged 18–49 years with underlying medical conditions may get a booster shot of Pfizer-BioNTech vaccine based on their individual benefits and risks.** Adults aged 18–49 years who have [underlying medical conditions](#) are at increased risk for severe illness from COVID-19. However, that risk is likely not as high as it would be for adults aged 50 years and older who have underlying medical conditions. People aged 18–49 years who have underlying medical conditions may get a booster shot after considering their individual risks and benefits. This recommendation may change in the future as more data become available.

#### **Employees and residents at increased risk for COVID-19 exposure and transmission**

**People aged 18–64 years at increased risk for COVID-19 exposure and transmission because of [occupational or institutional setting](#) may get a booster shot of Pfizer-BioNTech vaccine based on their individual benefits and risks.** Adults aged 18–64 years who work or reside in certain settings (e.g., health care, schools, correctional facilities, homeless shelters) may be at increased risk of being exposed to COVID-19, which could be spreading where they work or reside. Since that risk can vary across settings and based on how much COVID-19 is spreading in a community, people aged 18–64 years who are at increased risk for COVID-19 exposure and transmission because of [occupational](#) or institutional setting may get a booster shot after considering their individual risks and benefits. This recommendation may change in the future as more data become available.

### **Examples of workers who may get Pfizer-BioNTech booster<sup>1</sup> shots**

- First responders (e.g., healthcare workers, firefighters, police, congregate care staff)
- Education staff (e.g., teachers, support staff, daycare workers)
- Food and agriculture workers
- Manufacturer workers
- Corrections workers
- U.S. Postal Service workers
- Public transit workers
- Grocery store workers

<sup>1</sup>List could be updated in the future

## **2. Emergency Rental Assistance Program Statistics**

- a. *ERA (2)* - As of this report, we have approved \$4,986,297.30 of our ERA (2) allocation, assisting 898 applicants.
- b. *ERA (1)* – Summary Report attached
- c. ERA Reallocation Guidance released by U.S. Treasury

Distributing Reallocated Funds (excerpt from pgs. 5,6)

Requesting Reallocated Funds: Treasury will begin accepting requests from Grantees for reallocated funds, on a form to be published by Treasury, on October 15, 2021. As the ERA1 statute requires, reallocated funds will only be available to Grantees that have obligated at least 65% of their own initial ERA1 allocations. Each funding request will be required to indicate the amount requested and confirm the need for such funds in the Grantee's jurisdiction.

Allocation of Reallocated Funds: Periodically, Treasury will determine if there are sufficient funding requests from Grantees serving jurisdictions with demonstrated needs to warrant the disbursement of reallocated funds. Treasury will evaluate each request for reallocated funds based on the requesting Grantee's demonstrated capacity to meet and exceed the minimum Expenditure Ratios, and other indications of ERA need in the Grantee's jurisdiction. The amount of any reallocation to a Grantee will be determined by Treasury, in its discretion, based on its assessment of these factors.

In the event Grantees request more reallocated funds than are available for distribution, each Grantee's share (Relative Share) will be calculated by (i) determining the aggregate amount of reallocated funds approved by Treasury based on its evaluation of the requests as described above; (ii) dividing the Grantee's approved amount by this aggregate total; and (iii) multiplying the total amount available for distribution by the resulting percentage. In addition, Treasury may limit a Grantee's eligibility for reallocated funds as a percentage of its initial allocation if appropriate to enable an equitable distribution of the available excess funds based on demonstrated needs among requesting Grantees. Treasury may

establish a different limit for each category of Grantee (state, locality, Tribe, TDHE, or U.S. territory), but would apply the relevant limit uniformly among Grantees within a category.

Grantees may be required to amend their existing ERA1 program agreements as a condition to receiving reallocated ERA1 funds. These amendments will ensure the program agreements are consistent with the Grantee's augmented allocation amount and reflect the terms and conditions described in this guidance.

Reallocation Priorities: When feasible and consistent with jurisdictional needs, Treasury intends to reallocate excess funds that are recaptured from a Grantee to another Grantee in the same state. When appropriate, after such an intrastate reallocation, a Grantee's excess funds will be reallocated to Grantees in other states.

In addition, Treasury may prioritize the reallocation of funding to Grantees that are likely to expend all their remaining ERA1 and ERA2 allocations promptly.

### **Key Takeaways**

- Richland County has obligated 99% of ERA (1) funding.
- Richland County has obligated over 50% of ERA (2) funding.
- Richland County will be requesting additional funding, approximately \$12.5M.
  - The amount equivalent to our first ERA award.
    - Our ERA (1) and (2) reporting data demonstrates that this is a viable request.
- We are considering whether to freeze taking new applications.
  - We have more applications than our funding level can support.

### **PROJECT UPDATES:**

#### **1. Strategic Planning Process and Community Survey**

Council formed the Strategic Planning Ad hoc Committee to guide the organization through the strategic planning process. The committee had its first meeting on October 5, 2021. The committee is comprised of the following Councilmembers: Jesica Mackey, Yvonne McBride and Chakisse Newton. The Honorable Jesica Mackey was elected Chair of the committee. The committee received a brief introduction from Baker Tilley, who has been hired as our strategic planning consultant. A follow up meeting was held Friday October 8 with Chair Mackey to coordinate efforts and future meetings.

Chair Mackey notified Council of upcoming individual interviews with Baker Tilley to be conducted during October. Interviews will also be conducted with staff focus groups, during the month of October.

In coordination with these efforts, Probolsky Research will be conducting a community survey that will be released on October 18. Ideally, the results of the survey will be available for Council consideration during the strategic planning process.

Upcoming activities related to this project:

Tuesday, October 26, 2021 at 3:00pm  
Week of November 15, 2021

Strategic Planning Committee Meeting  
Strategic Planning Retreat Date and Time TBA

## 2. Public Safety Complex

The architect contract with LS3P was executed on October 5, 2021 and a project update meeting was held on Friday, October 8 with team members for Administration, Procurement, Richland County Sheriff and LS3P in attendance. Initial project drawings by floor space and space calculation documents were reviewed. A facility walk through for participants is scheduled for Friday, October 5, 2021 at 10:00 am.

Upcoming meetings with LS3P and MWL (specialty subcontractor) and appropriate staff are scheduled as follows:

Wednesday, October 20, 2021	Forensics Lab Program Verification
Friday, October 22, 2021	911 Center Program Verification

An RFQ for a Construction Manager at Risk is currently open for proposers. This RFQ will close on Friday, October 15, 2021. The Construction Manager at Risk will work in partnership with the architect to efficiently move the project forward on an aggressive timetable by securing subcontractors, materials and supplies as soon as design services permit as opposed to waiting until design is complete. This firm would also do outreach and conduct community meetings to promote this project and encourage the inclusion of qualified small, local and minority owned businesses and subcontractors that may have an interest in working on this project. This type agreement will also be based upon an agreed upon Guaranteed Maximum Price. Under this condition, the County's risk to fluctuations in market labor and material prices are minimized. Both state and local governments and school districts with tremendous success have successfully used this process. Staff would hope to be in contract negotiations with the Construction Manager at Risk in November 2021.

Council gave first reading to the general obligation bond ordinance for this project on October 5, 2021. Staff plans to issue this debt in in early 2022.

## 3. Department of Social Services Relocation

There are no new updates to report on this project, at this time.

Staff continues to work with DSS to understand the facility needs of DSS. The meeting held on September 13, 2021 resulted in two objectives: (1) to better understand space needs, and (2) to provide helpful solutions to provide to a firm for a design-build project.

For funding mechanisms, Grant Thornton is reviewing this project to determine if it is a qualifier for American Rescue Plan funds or if general obligation debt is required. A recommendation will be forthcoming from Administration in the near future.

## 4. American Rescue Plan Funding

Richland County was awarded \$80,756,312 in American Rescue Plan Act funding for the response to, mitigation and prevention of COVID-19 and its adverse impacts. Richland County has received its first tranche of funding of \$40,378,156 with the remaining balance expected in mid-2022. As of today, US Treasury has not released its final rules and recipients continue to operate under Interim Final Guidance and frequently asked questions last updated July 19, 2021.

## 5. Redistricting Process

The County has received confirmation of assistance from the South Carolina Revenue and Fiscal Affairs Office (SCRFA). This is a free consulting service. The Representatives of the SCRFA have contacted the County to inform us of their efforts to provide the County with its Benchmark Report upon its completion.

Richland County also has an open RFP for a paid redistricting consultant. Submittals for the RFP for the redistricting consultant are due on October 20. In addition to the SCRFA's assistance, the engaged consultant will ensure the County's compliance with all appropriate laws and regulations as it prepares its submissions. We will be working with the consultant(s) to establish a timeline for all redistricting activities to occur with the March filing deadlines as a focal point.

Staff has begun its drafting of potential maps. As with previous redistricting efforts, staff and the consultant will contact Council members regarding the proposed new district boundaries. The project lead for the redistricting effort is Ms. Betty Etheredge in Community Planning & Development.

### ATTACHMENTS:

1. COVID-19 Statistical Data
2. ERA Summary Report
3. ERA Reallocation Guidance

Number of Tests

42,783

Select Date Range  
to Filter Page Values

9/27/2021

10/11/2021

Percent Positive

5.6%

Rate of COVID-19 Tests Performed per 10,000 population, by County



Type of COVID-19 Tests Being Performed

	Negative	Positive	Grand Total
<b>Antibody (Serology)</b>	223	106	329
<b>Antigen</b>	6,570	461	7,031
<b>Viral (Molecular)</b>	33,436	1,987	35,423
<b>Grand Total</b>	40,229	2,554	42,783

**2.2%** of all COVID-19 diagnostic testing has occurred at the Public Health Laboratory

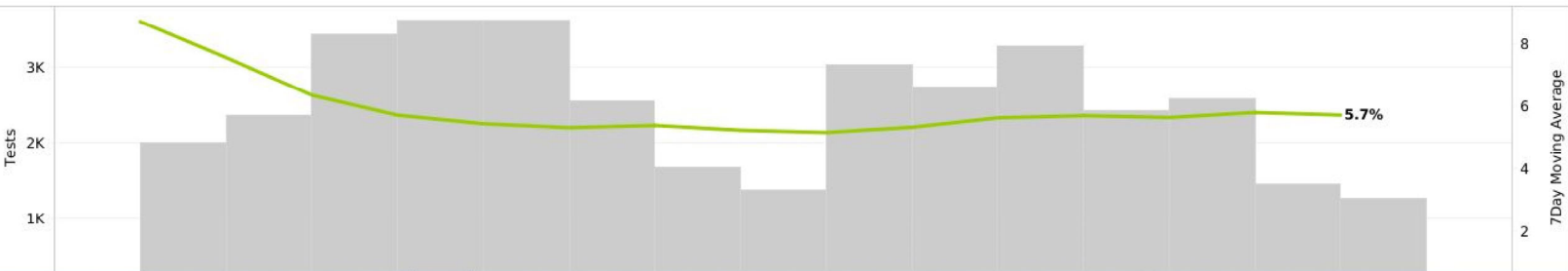
Note: This table represents volume of tests received and not distinct individuals tested. Individuals may have multiple tests.

\*Unknown Test Types refer to tests with an unrecognized test type. As we continue to investigate unknown test types they will be reassigned as more information becomes available.

Moving 7 Day Average Percent Positive of COVID-19 Tests

Note: Tooltips Display Percent Positive for the current day and moving 7 day average. Percent Positive is calculated using the Test/Test method.

- Count Viral (Molecular) Test over Test
- Positive PCR for Test over Test
- MOVING AVG TEST over TEST





Tests

**1,134,050**

Cases

**67,902**

Hospitalizations

**1,715**

Deaths

**747**

### Two Week Cumulative Incidence Rate

The Two-Week Cumulative Incidence Rate includes new (confirmed & probable) cases reported in the past two weeks (9/28/2021 - 10/11/2021) per 100,000 people. The rate describes recent incidence of COVID-19 infection to capture the potential burden of currently ill people who may be infectious and/or accessing healthcare.

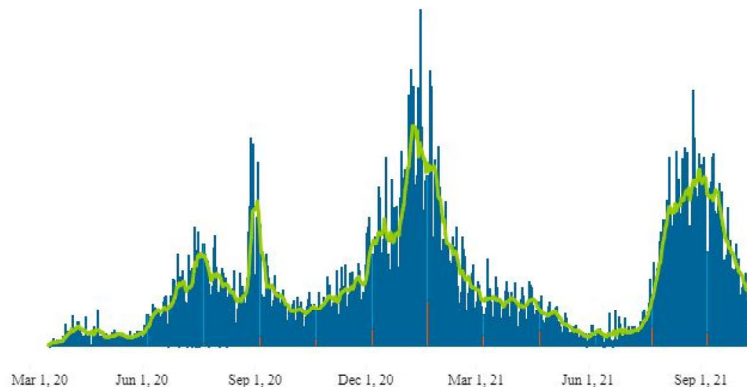
Select a [county](#) to display county-specific information  
Click the county again to return to the full state map



### COVID-19 Cases per Day

County Displayed: Richland

- Count of Confirmed Cases
- Count of Probable Cases
- Moving Average 7 day



### 7-Day Moving Average of reported COVID-19 Cases, by Public Health Region

■ Midlands



Low; 0-50

Moderate; 51-200

High; >200

Current Date	10/12/2021
Project Start Date	4/5/2021
Total Case Count	14562
Total Approved Cases	2004

## APPLICATIONS INITIATED

\*\*Please be advised that most of the demographic information on this page has not been validated or check for veracity.

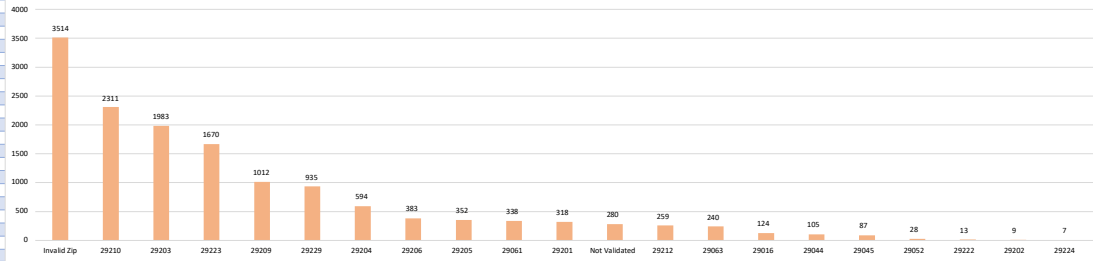
\*\*Cases coming from 140 zip codes in total. 88 Zips only have 1 case

\*\*Zip record not in the right format/digits/blank considered "Invalid Zip", Zip in 9 digits take first 5 digits as Zip record

### Applications Breakdown by Zip

Applications Zip	Application Count
Invalid Zip	3514
29210	2311
29203	1983
29223	1670
29209	1012
29229	935
29204	594
29206	383
29205	352
29061	338
29201	318
Not Validated	280
29212	259
29063	240
29016	124
29044	105
29045	87
29052	28
29222	13
29202	9
29224	7
<b>Total</b>	<b>14562</b>

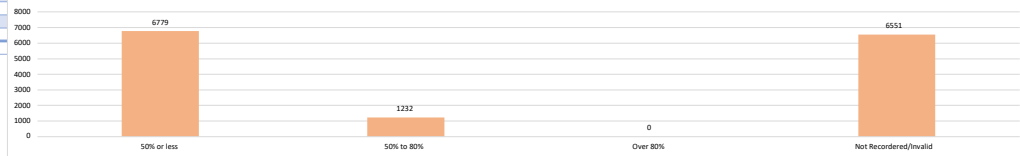
### Approved Applications Breakdown by Zip



### Applications Breakdown by Household AMI Ratio

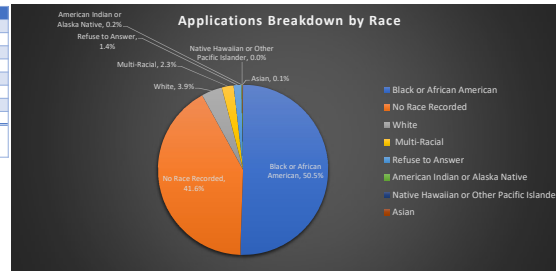
Household AMI level	Application Count	%
50% or less	6779	46.6%
50% to 80%	1232	8.5%
Over 80%	0	0.0%
Not Recorded/Invalid	6551	45.0%
<b>Total</b>	<b>14562</b>	<b>100.0%</b>

### Approved Applications Breakdown by Zip



### Applications Breakdown by Race

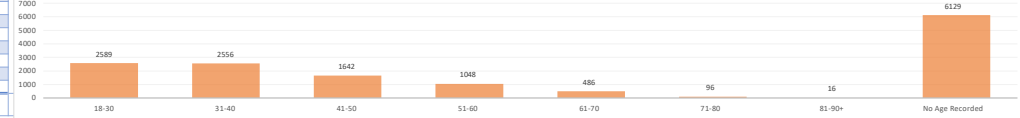
Race	Application Count	% Of Total
Black or African American	7353	50.5%
No Race Recorded	6051	41.6%
White	567	3.9%
Multi-Racial	334	2.3%
Refuse to Answer	209	1.4%
American Indian or Alaska Native	23	0.2%
Native Hawaiian or Other Pacific Islander	6	0.0%
Asian	19	0.1%
<b>Total</b>	<b>14562</b>	<b>100.0%</b>



### Applications Breakdown by Age

Age	Application Count	% Of Total
18-30	2589	17.8%
31-40	2556	17.6%
41-50	1642	11.3%
51-60	1048	7.2%
61-70	486	3.3%
71-80	96	0.7%
81-90+	16	0.1%
No Age Recorded	6129	42.1%
<b>Total</b>	<b>14562</b>	<b>100.0%</b>

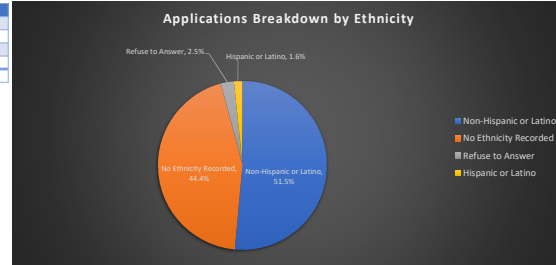
### Applications Submitted by Age



\*\*All ages left blank or not conforming to 18 years old and older are identified as "No Age Recorded"

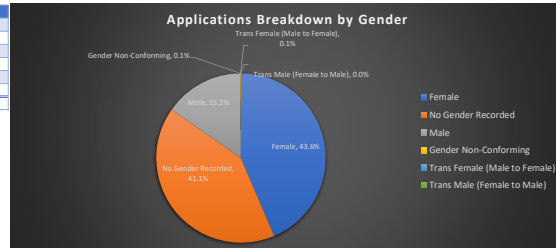
### Applications Breakdown by Ethnicity

Ethnicity	Application Count	% Of Total
Non-Hispanic or Latino	7494	51.5%
No Ethnicity Recorded	6470	44.4%
Refuse to Answer	364	2.5%
Hispanic or Latino	234	1.6%
<b>Total</b>	<b>14562</b>	<b>100.0%</b>



### Applications Breakdown by Gender

Gender	Application Count	% Total
Female	6351	43.6%
No Gender Recorded	5988	41.1%
Male	2195	15.1%
Gender Non-Conforming	16	0.1%
Trans Female (Male to Female)	8	0.1%
Trans Male (Female to Male)	4	0.0%
<b>Total</b>	<b>14562</b>	<b>100.0%</b>



\*\*Please note - data presented in this report has been exported directly from Neighborly. Some cases have not yet been reviewed\*\*

# Richland County Cases Breakdown by Category ERAP1

Prepared by



Current Date	10/12/2021
Project Start Date	4/15/2021
Total Case Count	14562
Total Approved Cases	2004

## APPLICATION SUBMITTED

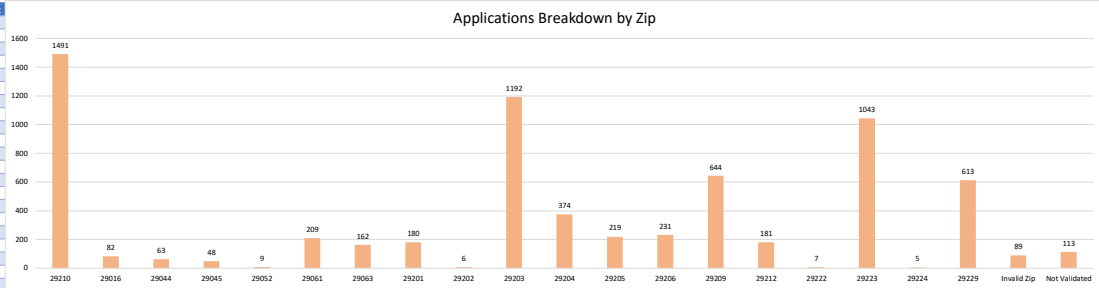
\*\*Please be advised that most of the demographic information on this page has not been validated or check for veracity.

\*\*Cases coming from 340 zip codes in total. 88 Zips only have 1 case

\*\*Zip record not in the right format/digits/blank considered "Invalid Zip", Zip in 9 digits take first 5 digits as Zip record

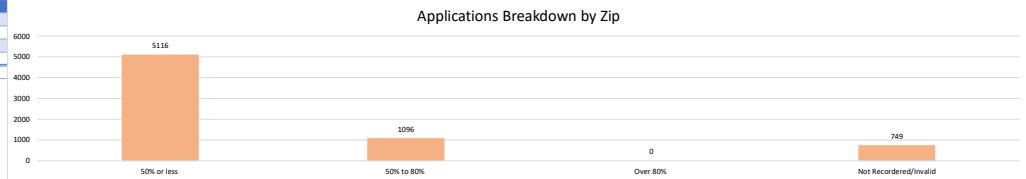
### Applications Breakdown by Zip

Applications Zip	Application Count
29210	1491
29016	82
29044	63
29045	48
29052	9
29061	209
29063	162
29201	180
29202	6
29203	1192
29204	374
29205	219
29206	231
29209	644
29212	181
29222	7
29223	1043
29224	5
29229	613
Invalid Zip	89
Not Validated	113
<b>Total</b>	<b>6961</b>



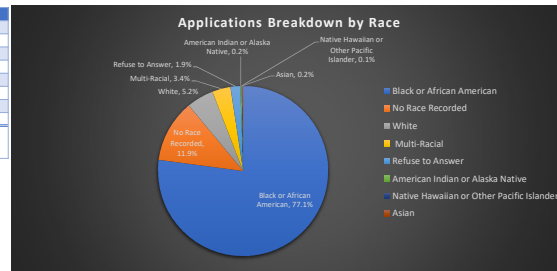
### Applications Breakdown by Household AMI Ratio

Household AMI level	Application Count	%
50% or less	5116	73.5%
50% to 80%	1096	15.7%
Over 80%	0	0.0%
Not Recorded/Invalid	749	10.8%
<b>Total</b>	<b>6961</b>	<b>100.0%</b>



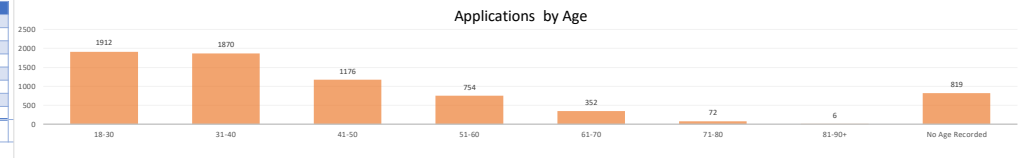
### Applications Breakdown by Race

Race	Application Count	% Of Total
Black or African American	5368	77.1%
No Race Recorded	828	11.9%
White	359	5.2%
Multi-Racial	240	3.4%
Refuse to Answer	130	1.9%
American Indian or Alaska Native	17	0.2%
Native Hawaiian or Other Pacific Islander	5	0.1%
Asian	14	0.2%
<b>Total</b>	<b>6961</b>	<b>100.0%</b>



### Applications Breakdown by Age

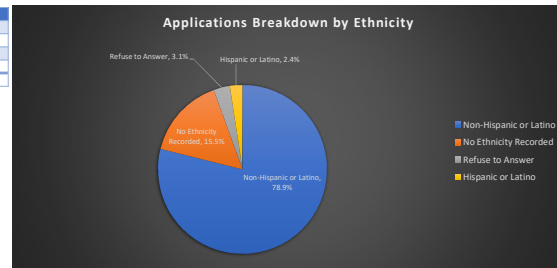
Age	Application Count	% Of Total
18-30	1912	27.5%
31-40	1870	26.9%
41-50	1176	16.9%
51-60	754	10.8%
61-70	352	5.1%
71-80	72	1.0%
81-90+	6	0.1%
No Age Recorded	819	11.8%
<b>Total</b>	<b>6961</b>	<b>100.0%</b>



\*\*All ages left blank or not conforming to 18 years old and older are identified as "No Age Recorded"

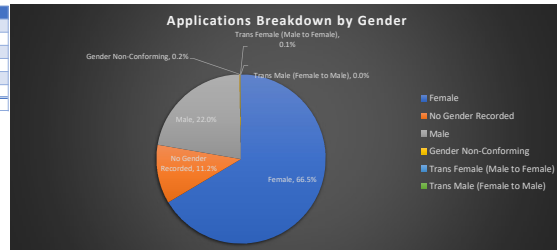
### Applications Breakdown by Ethnicity

Ethnicity	Application Count	% Of Total
Non-Hispanic or Latino	5493	78.9%
No Ethnicity Recorded	1082	15.5%
Refuse to Answer	217	3.1%
Hispanic or Latino	169	2.4%
<b>Total</b>	<b>6961</b>	<b>100.0%</b>



### Applications Breakdown by Gender

Gender	Application Count	% Total
Female	4625	66.5%
No Gender Recorded	782	11.2%
Male	1532	22.0%
Gender Non-Conforming	13	0.2%
Trans Female (Male to Female)	5	0.1%
Trans Male (Female to Male)	3	0.0%
<b>Total</b>	<b>6961</b>	<b>100.0%</b>



\*\*Please note - data presented in this report has been exported directly from Neighborly for all submitted cases. Some cases have not yet been reviewed\*\*

# Richland County Cases Breakdown by Category ERAP1

Prepared by



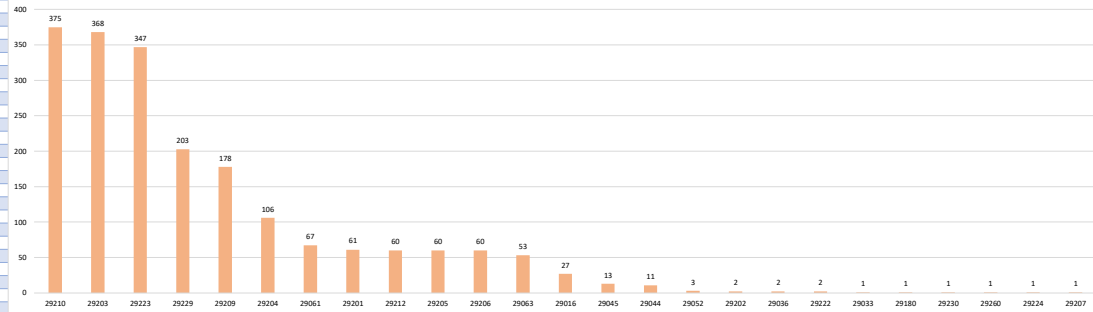
Current Date	10/12/2021
Project Start Date	4/5/2021
Total Case Count	14562
Total Approved Cases	2004

## APPLICATION APPROVED

### Applications Breakdown by Zip

Applications Zip	Application Count
29210	375
29203	368
29223	347
29229	203
29209	178
29204	106
29061	67
29201	61
29212	60
29205	60
29206	60
29063	53
29016	27
29045	13
29044	11
29052	3
29202	2
29036	2
29222	2
29033	1
29180	1
29230	1
29260	1
29224	1
29207	1
<b>Total</b>	<b>2004</b>

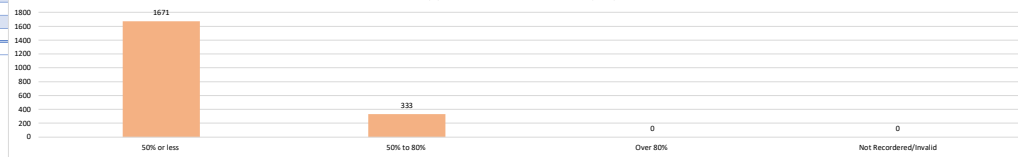
Applications Breakdown by Zip



### Applications Breakdown by Household AMI Ratio

Household AMI level	Application Count	%
50% or less	1671	83.4%
50% to 80%	333	16.6%
Over 80%	0	0.0%
Not Recorded/Invalid	0	0.0%
<b>Total</b>	<b>2004</b>	<b>100.0%</b>

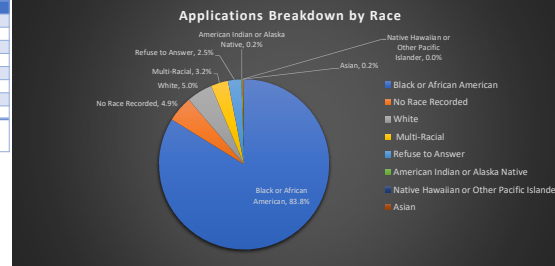
Applications Breakdown by Zip



### Applications Breakdown by Race

Race	Application Count	% Of Total
Black or African American	1650	83.3%
No Race Recorded	98	4.9%
White	100	5.0%
Multi-Racial	65	3.2%
Refuse to Answer	51	2.5%
American Indian or Alaska Native	4	0.2%
Native Hawaiian or Other Pacific Islander	1	0.0%
Asian	5	0.2%
<b>Total</b>	<b>2004</b>	<b>100.0%</b>

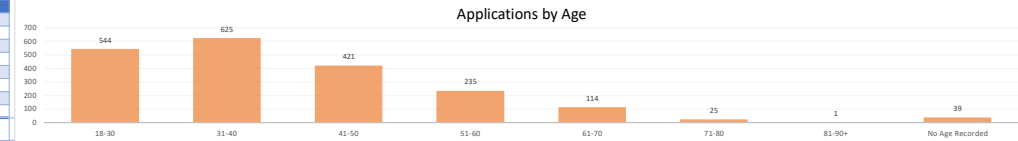
Applications Breakdown by Race



### Applications Breakdown by Age

Age	Application Count	% Of Total
18-30	544	27.1%
31-40	625	31.2%
41-50	421	21.0%
51-60	235	11.7%
61-70	114	5.7%
71-80	25	1.2%
81-90+	1	0.0%
No Age Recorded	39	1.9%
<b>Total</b>	<b>2004</b>	<b>100.0%</b>

Applications by Age

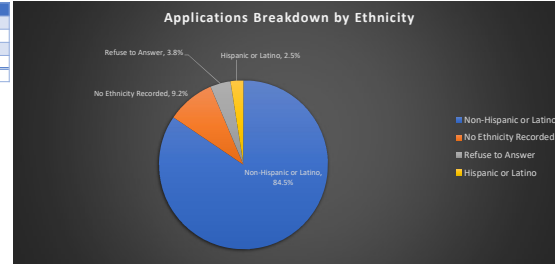


\*\*All ages left blank or not conforming to 18 years old and older are identified as "No Age Recorded"

### Applications Breakdown by Ethnicity

Ethnicity	Application Count	% Of Total
Non-Hispanic or Latino	1693	84.5%
No Ethnicity Recorded	184	9.2%
Refuse to Answer	77	3.8%
Hispanic or Latino	50	2.5%
<b>Total</b>	<b>2004</b>	<b>100.0%</b>

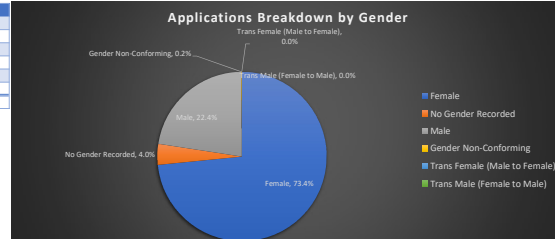
Applications Breakdown by Ethnicity



### Applications Breakdown by Gender

Gender	Application Count	% Total
Female	1471	73.4%
No Gender Recorded	80	4.0%
Male	449	22.4%
Gender Non-Conforming	4	0.2%
Trans Female (Male to Female)	0	0.0%
Trans Male (Female to Male)	0	0.0%
<b>Total</b>	<b>2004</b>	<b>100.0%</b>

Applications Breakdown by Gender





THE DEPUTY SECRETARY OF THE TREASURY  
WASHINGTON

October 4, 2021

Dear Emergency Rental Assistance Program Grantee:

Today, the Treasury Department published new guidance outlining the process for reallocating Emergency Rental Assistance funds. Treasury's reallocation approach is designed to maximize the amount of assistance delivered and the number of households served with the funds Congress has appropriated to mitigate the effects of the COVID-19 pandemic on renters and landlords. Treasury will carry out the statutory requirement to reallocate funds to accomplish this goal in three ways: (1) make more resources available to high-performing grantees based on need, (2) incentivize adoption of best practices among grantees to help them streamline and improve their processes, and (3) work to ensure funds do not go unused by programs unable to assist struggling renters and landlords.

In December 2020, Congress passed the Emergency Rental Assistance Program under the Consolidated Appropriations Act, 2021 (ERA1) to keep renters in their homes and to limit the long-term economic scarring caused by evictions. Congress initially allocated funds based on population. However, Congress also anticipated the need to respond to the pandemic's evolving conditions through the reallocation of funds to jurisdictions with the greatest needs and capacity to deploy funding.

From the beginning of this program, Treasury has provided technical assistance to grantees, released new guidance to reduce barriers to access, published best practices, and spoken with hundreds of program administrators to support their efforts to expedite assistance to tenants. Many grantees have embraced Treasury's recommendations and were able to quickly disburse funds; others that initially struggled to build the necessary program infrastructure are now seeing increased progress after adopting Treasury's recommendations to speed up assistance. Still, some grantees have not demonstrated sufficient progress or intent to make changes in their programs to get resources into the hands of eligible tenants and landlords. There are even some grantees that received more funding in their initial allocation than will realistically be needed in their jurisdiction in the next year.

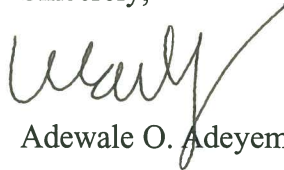
Treasury's approach to reallocation addresses each of these types of grantees by redirecting resources to top-performing grantees serving high-needs areas, providing grantees an opportunity to present a program improvement plan in order to keep their existing funds, and recapturing dollars from the lowest performers that have been unable or unwilling to speed up assistance. In addition, Treasury is working with grantees that may seek to voluntarily reallocate funds to other jurisdictions—for example, states seeking to send money to cities or counties within their jurisdiction—to maximize the program's impact.

Grantees that have not obligated at least 65 percent of their ERA1 funding by September 30, will be required to submit a program improvement plan. As part of this plan, the grantees will report whether they have implemented the best practices described in Treasury's guidance, including

the use of self-attestations; the use of eviction diversion partnerships; engagement with providers of culturally and linguistically relevant housing stability services; and other strategies that have increased the amount of rental assistance provided in jurisdictions across the country. In addition, the lowest-performing grantees will face reallocation based on their expenditure ratio – a measure of the amount of funds that they have actually provided to benefit eligible households – with more funding subject to reallocation over time. In making all these decisions we will be guided by our commitment to make emergency rental relief available to as many eligible Americans as possible.

Though we have a long way to go, the Emergency Rental Assistance Program is on track to protect millions of Americans from eviction. The reallocation process required by statute is an important step to ensure that resources are available in areas with the greatest needs and the highest capacity to deliver these resources. Regardless of reallocation, Treasury will continue to support all grantees in building successful ERA programs and getting funds to renters in need.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adewale O. Adeyemo', with a long, sweeping flourish extending upwards and to the right.

Adewale O. Adeyemo

**U.S. Department of the Treasury**  
**Emergency Rental Assistance Under the Consolidated Appropriations Act, 2021**  
**Reallocation Guidance**

October 4, 2021

**I. Overview**

Section 501 of Division N of the Consolidated Appropriations Act, 2021 appropriated \$25 billion for the delivery of emergency rental assistance (ERA) to eligible households suffering unemployment or other financial hardship due to the novel coronavirus pandemic. The Department of the Treasury allocated these funds to states, the District of Columbia, U.S. territories, Indian tribes, Tribally designated housing entities (TDHEs), the Department of Hawaiian Homelands, and units of local government (Grantees).

Congress later appropriated an additional \$21,550,000,000 for ERA under the American Rescue Plan Act of 2021. Treasury refers to ERA under the Consolidated Appropriations Act, 2021, as “ERA1” and ERA under the American Rescue Plan Act of 2021 as “ERA2.” This guidance is focused on ERA1, and addresses ERA2 only to the extent relevant to the reallocation of ERA1 funds. Treasury will publish guidance for the reallocation of ERA2 funds, which will not begin until March 31, 2022, at a later date.

The Consolidated Appropriations Act, 2021 requires Treasury to begin reallocating “excess” ERA1 funds on September 30, 2021. Treasury’s objective in reallocations is to ensure ERA funds remain available to Grantees in accordance with their jurisdictional needs and demonstrated capacity to deliver assistance while the ERA appropriations remain available.

This guidance sets forth the procedures for the ERA1 reallocation process. It describes how Grantees that have obligated insufficient funds as of September 30, 2021 will be required to submit a Performance Improvement Plan and how excess funds will be identified based on the Grantee’s expenditures. It further describes timelines and mitigating factors related to the recapture of excess funds. This guidance also describes a voluntary reallocation process through which a Grantee may request that Treasury reallocate its funds to another Grantee. It also clarifies that Treasury will not recapture funds from Indian Tribes, TDHEs or U.S. territories prior to April 2022.

**II. Obligations and Excess Funds**

The ERA1 statute requires Treasury to identify “excess funds” for reallocation from amounts Grantees have “not obligated” from their initial ERA1 allocations. Specifically, the statute provides that beginning on September 30, 2021, Treasury must recapture excess funds, as determined by the Secretary, not obligated by a grantee for eligible ERA1 purposes, and Treasury must reallocate those funds to Grantees that, at the time of the reallocation, have obligated at least 65% of their initial ERA1 allocation. The amount of any reallocation is based on demonstrated need within a Grantee’s jurisdiction, as determined by Treasury.

Consistent with these requirements, Treasury has developed the following policies and procedures for identifying the excess funds that will be available for reallocation.

A. Obligating ERA Funds

Treasury will not recapture funds that a grantee has obligated. Treasury will consider funds to be obligated if they meet any of the following conditions:

- The funds have actually been spent providing financial assistance and housing stability services under ERA for eligible households;
- The funds are needed to pay for assistance promised in a commitment letter issued to induce a landlord to enter a rental agreement with an eligible household under Treasury's ERA FAQ #35; or
- Subject to the conditions described below concerning subrecipients, the Grantee has, as part of the Grantee's ERA program administration, entered into a binding agreement or funding commitment requiring the Grantee to disburse the funds to a third party for eligible ERA1 purposes (a Contractual Obligation).

A Contractual Obligation will include situations in which (i) assistance has been approved for an eligible household but the payment to the landlord or utility provider has not yet been disbursed, or (ii) assistance has been approved but not yet disbursed under a bulk payment arrangement with a large landlord or utility provider under Treasury's ERA FAQ #38.

Funds may not be deemed to be under a Contractual Obligation for more than 12 months. Treasury will consider any funds under a Contractual Obligation (subject to this 12-month limit) or any funds covered by a commitment letter issued to an eligible household to remain obligated for 30 days after the termination of the relevant agreement, funding commitment, or commitment letter. Funds not expended or re-obligated within the 30-day period will be considered de-obligated and potentially subject to reallocation in accordance with this guidance. In addition, under the ERA1 statute (as amended), Grantees must obligate all funds from their initial allocations by September 30, 2022.

Grantees are encouraged to partner with local nonprofit organizations and governmental agencies to expedite the obligation process and delivery of assistance to eligible households. However, Grantees may not use subrecipient agreements with these entities to avoid meeting the statutory obligation deadlines, and funds will not be considered obligated based solely on the fact they are subject to an agreement that provides for another entity to administer assistance on the Grantee's behalf. Funds paid or payable by a Grantee under a subrecipient agreement, and that have not been expended by the subrecipient for permissible purposes, will be considered obligated only to the extent that such funds (i) represent the subrecipient's permissible compensation for ERA1-related responsibilities, in accordance with Treasury's ERA FAQ #21; or (ii) will be used to pay obligations under binding agreements or funding commitments that would constitute Contractual Obligations if entered into by the Grantee directly.



The ERA1 statute provides that Grantees may use up to 10% of their allocations for administrative costs attributable to providing financial assistance and housing stability services. For reallocation purposes, Treasury will consider 10% of each Grantee's initial allocation as having been obligated for administrative costs regardless of the Grantee's actual expenditures, commitments, or obligations.

Grantees will be required to submit a certification indicating the amount of funds they have obligated through September 30, 2021 (an Obligated Funds Certification). Grantees that have obligated less than 65% of their allocations, or that do not provide an Obligated Funds Certification, will be required to submit for Treasury's approval a program self-assessment and improvement plan, as described in Section II.C.2, in a form provided by Treasury (a Program Improvement Plan), no later than November 15, 2021.

### *B. Identifying Excess Funds*

Treasury will rely on the following factors for identifying excess funds. Each factor will be applied separately. If Treasury identifies excess funds based on multiple factors, the amount to be reallocated from the Grantee will equal the aggregate total. Treasury will not identify excess funds from allocations to Indian Tribes, TDHEs or U.S. territories prior to April 2022.

Treasury will notify a Grantee in writing upon determining that any part of its allocation constitutes excess funds and will provide instructions for the funds' return. Excess funds must be returned within 10 days of receiving such notice.

#### *1. Insufficient Expenditure Ratio*

In addition to evaluating the amount of ERA1 funding obligated by a Grantee as of September 30, 2021, Treasury will also evaluate a Grantee's "Expenditure Ratio" as of September 30, 2021 and approximately every two months thereafter. A Grantee's Expenditure Ratio will be calculated as (i) the Grantee's total expenditure of ERA1 funds on assistance to eligible households divided by (ii) an amount equal to 90% of the Grantee's total ERA1 allocations as of the date of the assessment.<sup>1</sup> The Grantee's total assistance expenditures will be determined based on the Grantee's interim report to Treasury for the first quarter of 2021 and each subsequent monthly report. Grantees will be required to continue providing monthly reports at least through March 31, 2022. If funds are recaptured from a Grantee, the denominator of the Expenditure Ratio will be adjusted accordingly. The "First Assessment" means Treasury's assessment of a Grantee's performance and Expenditure Ratio based on the reporting data through September 30, 2021.

A Grantee whose Expenditure Ratio is below 30% for the First Assessment will be considered to have excess funds. Beginning with the 30% threshold established for September 2021, the minimum Expenditure Ratio will increase by 5% each calendar month (and, as indicated above, assessments will occur approximately every two months).

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<sup>1</sup> This allowance reflects the ERA1 statute's requirement that at least 90% of a grantee's allocation be spent on assistance to eligible households, with the remainder to be used for administrative costs.

For each Grantee whose Expenditure Ratio is below the then-applicable minimum threshold at the time of an assessment, Treasury will calculate the Grantee's amount of excess funds as the difference between (i) the amount of expenditures needed for the Grantee to achieve the minimum Expenditure Ratio applicable to that assessment and (ii) the Grantee's reported total assistance expenditures. As a result, the amount subject to recapture will be less for Grantees whose Expenditure Ratios are closer to the minimum.

## *2. Failure to Make Required Submissions*

As described elsewhere in this guidance, a Grantee will be required to submit a Program Improvement Plan if the Grantee does not certify that the Grantee has obligated sufficient ERA1 funding as of September 30, 2021, and the Grantee may submit a Program Improvement Plan to mitigate an excess funds determination that results from an insufficient Expenditure Ratio on September 30, 2021. A Grantee that submits a Program Improvement Plan will be required to deliver a report within 60 days after the date of Treasury's approval of the Program Improvement Plan confirming that actions have been taken to implement the policy and administrative improvements identified in the Program Improvement Plan.

A Grantee that is required to submit a Program Improvement Plan but does not do so by November 15, 2021 will be determined to have excess funds in an amount equal to 10% of the Grantee's initial allocation. A Grantee that submits a Program Improvement Plan but does not submit the required report confirming progress in implementing the actions identified in the Performance Improvement Plan in a timely manner may be determined to have excess funds in an amount equal to 10% of the Grantee's allocation at that time (taking into account any previous reallocations).

## *3. Unobligated Funds at Final Assessment*

Treasury will conduct a final assessment of each grantee's Expenditure Ratio based on data reported through March 31, 2022. At that time, any unobligated ERA1 funds may be determined to be excess funds.

### *C. Mitigating Factors for Excess Funds.*

If a Grantee is subject to an excess funds determination based on the criteria described above, the Grantee may request that Treasury reduce or not make the determination based on any of the following three criteria.

#### *1. First Assessment Mitigation*

Treasury will not make a determination of excess funds based on an insufficient Expenditure Ratio for the First Assessment if the Grantee submits by November 15, 2021 a certification signed by an authorized official of the Grantee that confirms that either (i) the Grantee has obligated at least 65% of its allocation or (ii) the Grantee's Expenditure Ratio is at least 30%.

## *2. Developing a Program Improvement Plan*

As indicated in Section II.A, Grantees that have obligated less than 65% of their allocations, or that do not provide an Obligated Funds Certification, will be required to submit for Treasury's approval a program self-assessment and improvement plan. Further, with respect to the First Assessment, a Grantee may request that Treasury reduce an excess funds determination if the Grantee submits a Program Improvement Plan as described below no later than November 15, 2021. If Treasury approves such a Program Improvement Plan, any reduction in the excess funds determination will not exceed the amount of total assistance expenditures required for the Grantee's Expenditure Ratio to equal 15%.

The Program Improvement Plan will identify (i) policies and practices recommended by Treasury that the Grantee has already implemented, such as the use of self-attestations to confirm applicant income eligibility; eviction diversion partnerships; and engaging providers of culturally and linguistically relevant housing stability services; (ii) whether the Grantee has adopted any policies or practices that Treasury has discouraged; (iii) key obstacles to delivering ERA assistance to eligible households in the Grantee's jurisdiction; (iv) actions that the Grantee will take to improve program performance; and (v) a projection of the Grantee's ERA1 expenditures over the following four months. Treasury will approve a Grantee's Program Improvement Plan if it is complete and identifies actions for improvement that relate to adopting policies and practices recommended by Treasury, ceasing policies and practices Treasury has discouraged, or otherwise adequately addresses the key obstacles identified by the Grantee in the Program Improvement Plan.

## *3. Exigent Circumstances*

Treasury may also reduce or not make an excess funds determination if Treasury determines that the amount of excess funds was the result of exigent circumstances, such as a natural disaster.

## **III. Distributing Reallocated Funds**

### *A. Requesting Reallocated Funds*

Treasury will begin accepting requests from Grantees for reallocated funds, on a form to be published by Treasury, on October 15, 2021. As the ERA1 statute requires, reallocated funds will only be available to Grantees that have obligated at least 65% of their own initial ERA1 allocations. Each funding request will be required to indicate the amount requested and confirm the need for such funds in the Grantee's jurisdiction.

### *B. Allocation of Reallocated Funds*

Periodically, Treasury will determine if there are sufficient funding requests from Grantees serving jurisdictions with demonstrated needs to warrant the disbursement of reallocated funds. Treasury will evaluate each request for reallocated funds based on the requesting Grantee's demonstrated capacity to meet and exceed the minimum Expenditure Ratios, and other indications of ERA need in the Grantee's jurisdiction. The amount of any reallocation to a

Grantee will be determined by Treasury, in its discretion, based on its assessment of these factors.

In the event Grantees request more reallocated funds than are available for distribution, each Grantee's share (Relative Share) will be calculated by (i) determining the aggregate amount of reallocated funds approved by Treasury based on its evaluation of the requests as described above; (ii) dividing the Grantee's approved amount by this aggregate total; and (iii) multiplying the total amount available for distribution by the resulting percentage. In addition, Treasury may limit a Grantee's eligibility for reallocated funds as a percentage of its initial allocation if appropriate to enable an equitable distribution of the available excess funds based on demonstrated needs among requesting Grantees. Treasury may establish a different limit for each category of Grantee (state, locality, Tribe, TDHE, or U.S. territory), but would apply the relevant limit uniformly among Grantees within a category.

Grantees may be required to amend their existing ERA1 program agreements as a condition to receiving reallocated ERA1 funds. These amendments will ensure the program agreements are consistent with the Grantee's augmented allocation amount and reflect the terms and conditions described in this guidance.

### C. Reallocation Priorities

When feasible and consistent with jurisdictional needs, Treasury intends to reallocate excess funds that are recaptured from a Grantee to another Grantee in the same state. When appropriate, after such an intrastate reallocation, a Grantee's excess funds will be reallocated to Grantees in other states.

In addition, Treasury may prioritize the reallocation of funding to Grantees that are likely to expend all their remaining ERA1 and ERA2 allocations promptly.

### D. Extended Statutory Deadline

Grantees are prohibited from obligating any funds from their initial allocations after the statutory deadline of September 30, 2022. Grantees may, however, request an extension through December 29, 2022 to continue obligating funds received through reallocation. The funding request form described in Section III.A. will enable such extension requests.

## **IV. Voluntary Reallocation**

Beginning September 30, 2021, Grantees may request the transfer of some or all of their allocations to another Grantee that (i) administers an ERA1 program in the same state, territory, or Tribal area and (ii) has obligated or spent at least 65% of its own allocation by the time of transfer. Grantees may request Treasury's assistance in identifying a permissible transferee.

To complete a voluntary reallocation, the transferor and transferee Grantees will generally be required to submit a written agreement signed by authorized officials, together with documents meeting the following requirements:

- The transferee must provide evidence of demonstrated need in its jurisdiction for the funds to be transferred. This requirement may be satisfied by (i) Treasury’s confirmation that the transferee has spent or obligated at least 65% of its own allocation and (ii) a description of the transferee’s need for the funds, attested to by the transferee’s authorized official.
- Both the transferor and transferee Grantees must agree to comply with administrative requirements applicable to the transfer of federal funds between and among Grantees, including the completion and submission of certain documents that Treasury will provide.
- The transferor must acknowledge and agree in writing that the transferred amount will be deemed to be excess funds and disclaim any further right, title, or interest therein.
- Both the transferor and transferee Grantees must attest to their compliance with all applicable ERA1 requirements under applicable law, guidance, or the Grantee’s funding agreement.

Upon approval, Treasury will provide the transferor and transferee Grantees with instructions for completing the necessary fund transfers. Treasury may determine not to approve a voluntary reallocation request if it appears that the proposed reallocation may (i) increase the risk that the funds would be recaptured; (ii) leave a Grantee with insufficient funds to meet the needs in its jurisdiction; or (iii) otherwise undermine the purposes of reallocation.

#### **V. Use of Funds for Administrative Expenses and Housing Stability Services**

A Grantee may spend up to 10% of its initial ERA1 allocation for administrative expenses only if the Grantee obligates at least 30% of its initial allocation for the provision of financial assistance and housing stability services on behalf of eligible households by September 30, 2022. If a Grantee has obligated less than 30% of its initial allocation providing financial assistance and housing stability services as of September 30, 2022, Treasury will presume that the Grantee’s administrative expenses were not attributable to such services – and therefore were not permissible uses of ERA1 funds – to the extent that the administrative expenses exceed 10% of the Grantee’s allocation after deducting amounts recaptured or reallocated as excess funds, unless the Grantee can demonstrate that those costs are related to the delivery of the program.

**U.S. Department of the Treasury**  
**How Emergency Rental Assistance Reallocation Works**

October 4, 2021

This document explains the structure of the Treasury Department’s approach to reallocating funds under the first Emergency Rental Assistance Program (ERA1) under the Reallocation Guidance (the Guidance) issued by Treasury on October 4, 2021. The Guidance’s central goal is to help more people stay in their homes and avoid eviction by speeding up the delivery of assistance to tenants and landlords in need. Treasury will carry out the statutory requirement to reallocate funds to accomplish this goal in three ways: (1) make more resources available to high-performing grantees based on need, (2) incentivize adoption of best practices among grantees to help them streamline and improve their processes, and (3) work to ensure funds do not go unused by programs unwilling or unable to assist struggling renters and landlords.

The Guidance covers the major aspects of how these funds will be reallocated, including the following:

- **Grantees that have not obligated at least 65% of their ERA1 funds – a measure that captures both spent and committed funds – must submit a program improvement plan.** Grantees under the 65% obligation threshold must submit a program improvement plan by November 15 that identifies how they will accelerate their delivery of assistance to eligible tenants and landlords. Treasury will consider whether grantees plan to implement the best practices described in Treasury’s guidance, including the use of self-attestations; the use of eviction diversion partnerships; engagement with providers of culturally and linguistically relevant housing stability services; and other strategies that have accelerated the delivery of rental assistance provided in jurisdictions across the country.

Grantees will be required to submit a report on their progress with their plan within 60 days of its approval by Treasury. If grantees do not submit an adequate plan or fail to submit the required confirmation, 10% of their ERA1 funds will be determined to be “excess funds.” Treasury will release forms and instructions for program improvement plans in the near future.

- **Grantees who have not obligated at least at least 65% of ERA1 funding who have insufficient expenditure ratios—a measure of funds actually spent providing assistance to eligible households—will face reallocation.** Grantees with expenditure ratios below 30% as of September 30, based on the program data they submit to Treasury by October 15, will be determined to have “excess funds” subject to potential recapture. Specifically, a grantee with an expenditure ratio below 30% will be determined to have excess funds equal to the difference between its reported expenditures and the amount of expenditure needed to reach the 30% threshold.

- **A Grantee with both inadequate obligations and insufficient expenditures will have a variety of ways to mitigate the amount that Treasury would otherwise recapture as a result of this first assessment.**
  - The grantee can avoid recapture if, by November 15, 2021, it is able to certify to Treasury that its expenditure ratio is at least 30%, or that it has obligated at least 65% of its ERA1 allocation.
  - Further, grantees that submit a program improvement plan that is approved by Treasury will benefit from a recalculation of the grantee’s excess funds determination that will assume a one-time 15% addition to their expenditure ratio to help them meet minimum expenditure ratio threshold of 30%. This will afford grantees an additional opportunity to accelerate spending before losing funds as they put in place new policies.
  
- **After the first assessment, Treasury will assess each grantee’s expenditure ratio approximately every two months.** The expenditure ratio threshold used to calculate excess funds will rise by 5 percentage points every calendar month (for example, the threshold as of November 30 will be 40 percent). As of March 31, 2022, any unobligated funds may be designated as excess funds and be reallocated, helping to ensure that funding does not go unused as a result of the September 30, 2022 statutory deadline for obligating ERA1 funds.
  
- **Treasury expects to distribute recaptured funds about every two months, as warranted based on availability and confirmed need.** Treasury will soon begin collecting requests from grantees for additional funds. These requests will be submitted on a standard form provided by Treasury that allows grantees to confirm and describe the needs in their communities. As excess funds become available, Treasury will prioritize, when feasible, requests from grantees in the same state where the funds were initially allocated. The remainder will be available for reallocation nationwide, with priority afforded to grantees already on track to expend both their remaining ERA1 and ERA2 funds. In making all these decisions, Treasury will be guided by its commitment to ensure better relief – not less – to those living in jurisdictions that have so far underperformed in getting emergency rental relief to eligible members of their communities.



## SPONSORSHIP OPPORTUNITIES

# JAZZ AT LINCOLN CENTER ORCHESTRA WITH WYNTON MARSALIS "BIG BAND HOLIDAYS"

DECEMBER 9-10, 2021





## A PREMIER HOLIDAY SPECTACLE OF LEGENDARY JAZZ

A monumental moment for arts and culture in the Midlands returns as ColaJazz and the Koger Center for the Arts present the Jazz at Lincoln Center Orchestra with Wynton Marsalis to perform *Big Band Holidays*, a beloved, internationally-renowned holiday tradition straight from the New York City stage. Led by the world's leading jazz trumpeter Wynton Marsalis, the distinguished Jazz at Lincoln Center Orchestra is lauded globally as today's preeminent jazz ensemble. *Big Band Holidays* is famed for showcasing some of the most exciting and charismatic vocalists on the scene, and this uplifting holiday program plays to sold-out audiences each year to deliver holiday cheer directly to audiences of all ages.

Following the smash hit, socially-distant performance by the Jazz at Lincoln Center Orchestra with Wynton Marsalis in May of 2021 at the Koger Center, the ensemble looks forward to returning to the Midlands to present *Big Band Holidays* in Johnson Hall at the University of South Carolina on December 9th followed by a special, accessible outreach performance for over 1,000 local students at Eau Claire High School on December 10th. As much of the audience will be comprised of youth from underserved backgrounds, this outreach performance will exist as an unprecedented, inclusive opportunity for area students to interact and engage with the world's finest jazz musicians in the heart of the Midlands while ushering in the joy of the holiday season.

### Schedule of Events for *Big Band Holidays*:

- *Big Band Holidays* Evening Performance
  - UofSC's Johnson Hall: December 9th
- *Big Band Holidays* Outreach Performance
  - Eau Claire High School: December 10th





**UofSC Johnson Hall**  
500 Audience Members  
**Eau Claire High School**  
Audience of 1,200 Students

### Midlands Jazz Consumers

- Age: 35 - 54
- 56% Female
- 44% Male
- Average Annual Income:
  - \$55,000 - \$80,000
- Education Level
  - High School - Professional Degrees

Pictured: Founder and CEO of Colajazz Mark Rapp

## A PREMIER HOME FOR THE ARTS

The Koger Center for the Arts at the University of South Carolina School of Music brings exceptional art to community audiences by presenting transformational experiences that enlighten, educate, entertain, and inspire while fostering the economic vitality of South Carolina. For over 30 years, acclaimed national and international audiences have called the Koger Center stage home, and the center prides itself on presenting accessible, premier entertainment to audiences throughout the Midlands. In 2019, the Koger Center for the Arts partnered with ColaJazz to present "Live in the Lobby Jazz," and the series will be back by popular demand in the fall of 2021 featuring a season of high-profile local and national jazz stars including Wycliffe Gordon, Scotty Barnhart, and Wynton Marsalis!

## THE DRIVING BEAT

ColaJazz is the driving beat in jazz for the South Carolina Midlands! The ColaJazz foundation is dedicated to grow, support, and promote jazz through events, education, recordings, resources, and advocacy to create a thriving, culturally rich community. Since 2014, ColaJazz has worked tirelessly to establish and solidify Columbia, South Carolina as a world-class jazz destination, and ColaJazz provides access to renowned musicians, supports local artists, and invests in the future of the genre while ensuring that jazz continues to have a home in the Midlands. As an integral component of the organization's vibrant annual season, the ColaJazz Festival brings revered Grammy-award winners, internationally-known artists, and celebrated local talent to audiences each year to support the capital city as a thriving cultural destination.

## THE MIDLANDS: A CULTURAL DESTINATION

As a sponsor for the Jazz at Lincoln Center Orchestra with Wynton Marsalis, your brand will be positioned as a presenter of world-class entertainment directly to regional audiences while elevating the cultural landscape of the Midlands as a thriving destination for the arts. Access to high-quality arts and cultural experiences is integral to a community's identity, livability, and quality of life, and an investment in the JLCO's visit to Columbia is an investment in the economic and social development of the South Carolina Midlands. The following partnerships can be tailored to meet your company's marketing and visibility objectives:

### **\$20,000 - PRESENTING SPONSOR**

- "Presented by" credit on all marketing and promotional materials
- Phone call with Wynton Marsalis at a mutually agreed upon time
- Access to pre-show soundcheck and talk with Wynton Marsalis for your ticketed guests
- 10 VIP level tickets to the performance on December 9th
- Logo on all print, digital, and social media marketing collateral
- Onstage welcome to audiences on December 9th and 10th (2 minute maximum)
- Table and/or banner displays in the Johnson Hall lobby
- Direct link from the JLCO event page to your website
- Social media shoutout from the JLCO featuring your organization
- Complimentary performance from the ColaJazz Trio at your workplace
- Title Sponsorship of the 2021-2022 "Live in the Lobby Jazz" series

### **\$10,000 - ORCHESTRA SPONSOR**

- Access to pre-show soundcheck and talk with Wynton Marsalis for your ticketed guests
- 8 VIP level tickets to the performance on December 9th
- Logo on all print, digital, and social media marketing collateral
- Table and/or banner displays in the Johnson Hall lobby
- Direct link from the JLCO event page to your website
- Social media shoutout from the JLCO featuring your organization

Pictured: JLCO Band Leader Wynton Marsalis and Pianist Dan Nimmer





Pictured: JLCO Band Leader Wynton Marsalis

## **\$5,000 – GRAND TIER SPONSOR**

- Access to pre-show soundcheck and talk with Wynton Marsalis for your ticketed guests
- 6 VIP level tickets to the performance on December 9th
- Logo on all print, digital, and social media marketing collateral
- Direct link from the JLCO event page to your website
- Social media shoutout from Mark Rapp of ColaJazz to your organization

## **\$2,500 – ARTIST SPONSOR**

- 4 VIP level tickets to the performance on December 9th
- Logo on all print, digital, and social media marketing collateral
- Direct link from the JLCO event page to your website

## **\$1,000 – PATRON SPONSOR**

- 2 VIP level tickets to the performance on December 9th
- Logo on all print, digital, and social media marketing collateral

### **FOR ADDITIONAL SPONSORSHIP INFORMATION CONTACT:**

Simms Oliphant  
Koger Center for the Arts  
803-777-9733  
Oliphane@mailbox.sc.edu



## Richland County Council Request for Action

**Subject:**

21-022MA  
Frank McMaster  
RU to GC (8.76 Acres)  
Barbara Drive  
TMS # R17109-02-06

**Notes:**

First Reading: September 28, 2021  
Second Reading: October 5, 2021  
Third Reading:  
Public Hearing: September 28, 2021

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-21HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # R17109-02-06 FROM RURAL DISTRICT (RU) TO GENERAL COMMERCIAL DISTRICT (GC); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # R17109-02-06 from Rural District (RU) to General Commercial District (GC).

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after \_\_\_\_\_, 2021.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Paul Livingston, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Michelle M. Onley  
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

\_\_\_\_\_  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

Public Hearing:       September 28, 2021  
First Reading:       September 28, 2021  
Second Reading:     October 5, 2021  
Third Reading:       October 19, 2021

## Richland County Council Request for Action

**Subject:**

21-025MA  
Matthew Condon  
RU to RM-HD (5.94 Acres)  
9569 & 9579 Farrow Road  
TMS # R17400-09-05, 06 & 07

**Notes:**

First Reading: September 28, 2021  
Second Reading: October 5, 2021  
Third Reading:  
Public Hearing: September 28, 2021

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-21HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # R17400-09-05, 06, AND 07 FROM RURAL DISTRICT (RU) TO RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT (RM-HD); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # R17400-09-05, 06, & 07 from Rural District (RU) to Residential Multi-Family High Density District (RM-HD).

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after \_\_\_\_\_, 2021.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Paul Livingston, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Michelle M. Onley  
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

\_\_\_\_\_  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

Public Hearing:       September 28, 2021  
First Reading:       September 28, 2021  
Second Reading:     October 5, 2021  
Third Reading:       October 19, 2021



## Richland County Council Request for Action

**Subject:**

21-027MA  
Chip Goforth  
RU to RC (3.35 Acres)  
7742 Bluff Road  
TMS # R32403-02-04 & 05

**Notes:**

First Reading: September 28, 2021  
Second Reading: October 5, 2021  
Third Reading:  
Public Hearing: September 28, 2021

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL OF RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-21HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # R32403-02-04 AND 05 FROM RURAL DISTRICT (RU) TO RURAL COMMERCIAL DISTRICT (RC); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # R32403-02-04 and 05 from Rural District (RU) to Rural Commercial District (RC).

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after \_\_\_\_\_, 2021.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Paul Livingston, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Michelle M. Onley  
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

\_\_\_\_\_  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

Public Hearing:       September 28, 2021  
First Reading:       September 28, 2021  
Second Reading:     October 5, 2021  
Third Reading:       October 19, 2021

## Richland County Council Request for Action

**Subject:**

Authorizing the issuance of General Obligation Bonds in one or more series, tax-exempt or taxable, in an amount not to exceed \$40,000,000 for the purpose of acquiring, constructing, equipping, rehabilitating and improving a Public Safety Complex; authorizing the County Administrator to prescribe the details of the issuance and sale of the bonds and the form and details of the bonds, providing for the disposition of the proceeds of the bonds and the payment of the bonds, and other related matters

**Notes:**

September 28, 2021 – The A&F Committee recommended Council approve an ordinance for the issuance of tax-exempt General Obligation Bonds not to exceed \$40,000,000 for the construction of the Public Safety Complex at 7201 Two Notch Road, Columbia, SC.

First Reading: October 5, 2021

Second Reading: October 19, 2021 {Tentative}

Third Reading: November 9, 2021 {Tentative}

Public Hearing: November 9, 2021

**RICHLAND COUNTY  
ADMINISTRATION**

2020 Hampton Street, Suite 4069  
Columbia, SC 29204  
803-576-2050



**Agenda Briefing**

<b>Prepared by:</b>	Lori J. Thomas, MBA, CGFO	<b>Title:</b>	Assistant County Administrator	
<b>Department:</b>	Administration	<b>Division:</b>		
<b>Date Prepared:</b>	September 14, 2021	<b>Meeting Date:</b>	September 28, 2021	
<b>Legal Review</b>	Elizabeth McLean via email	<b>Date:</b>	September 14, 2021	
<b>Budget Review</b>	James Hayes via email	<b>Date:</b>	September 14, 2021	
<b>Finance Review</b>	Stacey Hamm via email	<b>Date:</b>	September 14, 2021	
<b>Approved for consideration:</b>	County Administrator	Leonardo Brown, MBA, CPM		
<b>Committee</b>	Administration & Finance			
<b>Subject:</b>	General Obligation Bond Ordinance – Public Safety Complex			

**STAFF’S RECOMMENDED ACTION:**

Staff recommends approval of ordinance for the issuance of tax-exempt General Obligation Bonds not to exceed \$40,000,000 for the construction of the Public Safety Complex at 7201 Two Notch Road, Columbia, SC.

Request for Council Reconsideration:  Yes

**FIDUCIARY:**

Are funds allocated in the department’s current fiscal year budget?	Yes	<input checked="" type="checkbox"/>	No
If no, is a budget amendment necessary?	Yes	<input checked="" type="checkbox"/>	No

**ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:**

None.

**COUNTY ATTORNEY’S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:**

None.

**REGULATORY COMPLIANCE:**

None applicable.

**MOTION OF ORIGIN:**

There is no associated Council motion of origin; however, on July 27, 2021, Council approved a reimbursement resolution for up to \$20,000,000 of expenditures related to this project that may be incurred prior to the issuance of these bonds.

Council Member	
Meeting	
Date	

#### **STRATEGIC & GENERATIVE DISCUSSION:**

As instructed by Council, staff has been diligently working to move forward the construction of the Public Safety Complex to house E-911, the Forensic Lab, and SC Pardon and Parole. Staff has determined that, based upon the current value of the County debt service fund, there will be sufficient funds collected to make annual payments on this debt with no impact to the County's General Fund.

Currently working under the reimbursement resolution adopted by Council on July 21, 2021, staff is imminently close to being under contract for the design services for the project and is working through Procurement to secure a Construction Manager at Risk.

The County currently estimates the project cost to be lower than the maximum \$40,000,000 allowed to be borrowed under the bond ordinance; however, to ensure that the County is able to move this process forward, we have built in a contingency for borrowing to allow for fluctuations in material costs. Final design and construction costs will be available prior to issuance to determine the exact bonds to be issued. This cost will be conveyed to Council in regular project updates.

#### **ADDITIONAL COMMENTS FOR CONSIDERATION:**

None.

#### **ATTACHMENTS:**

1. Bond Ordinance

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**RICHLAND COUNTY, SOUTH CAROLINA**

**ORDINANCE NO. []- 21HR**

**AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS IN ONE OR MORE SERIES, TAX-EXEMPT OR TAXABLE, IN AN AMOUNT NOT TO EXCEED \$40,000,000, FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, EQUIPPING, REHABILITATING AND IMPROVING A PUBLIC SAFETY COMPLEX; AUTHORIZING THE COUNTY ADMINISTRATOR TO PRESCRIBE THE DETAILS OF THE ISSUANCE AND SALE OF THE BONDS AND THE FORM AND DETAILS OF THE BONDS; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF THE BONDS AND THE PAYMENT OF THE BONDS; AND OTHER RELATED MATTERS.**

**ADOPTED: [], 2021**

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**ORDINANCE NO. []- 21HR**

**AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS IN ONE OR MORE SERIES, TAX-EXEMPT OR TAXABLE, IN AN AMOUNT NOT TO EXCEED \$40,000,000, FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, EQUIPPING, REHABILITATING AND IMPROVING A PUBLIC SAFETY COMPLEX; AUTHORIZING THE COUNTY ADMINISTRATOR TO PRESCRIBE THE DETAILS OF THE ISSUANCE AND SALE OF THE BONDS AND THE FORM AND DETAILS OF THE BONDS; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF THE BONDS AND THE PAYMENT OF THE BONDS; AND OTHER RELATED MATTERS.**

**THE RICHLAND COUNTY, SOUTH CAROLINA, COUNTY COUNCIL ORDAINS:**

**SECTION 1. *Findings.*** The County Council (“Council”) of Richland County, South Carolina (“County”), finds and determines:

(a) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, and Title 4, Chapter 15, and Title 11, Chapter 27 of the Code of Laws of South Carolina, 1976, as amended (collectively, “County Bond Act”), provides that each county may incur general obligation bonded indebtedness upon such terms and conditions as the General Assembly may prescribe by general law subject to the following limitations: (i) such debt must be incurred only for a purpose which is a public purpose and a corporate purpose for a county, and (ii) unless excepted therefrom, such debt may be issued in an amount not exceeding eight percent of the assessed value of all taxable property of such county (“Bonded Debt Limit”).

(b) The County has determined that it is in the best interest of the County to acquire, install, construct, equip, rehabilitate, and improve a public safety complex in the County, as more particularly described on Schedule I, (“Public Safety Complex”).

(c) The assessed valuation of all property in the County as of September 1, 2021 (unaudited), for purposes of determining the Bonded Debt Limit of the County is not less than \$1,795,111,528. Eight percent of this assessed value is \$143,608,922 (“County’s Bonded Debt Limit”). As of the date of this Ordinance, the County has outstanding no more than \$46,615,000 of general obligation indebtedness which count against the County’s Bonded Debt Limit (“Outstanding Eight Percent Debt”). As of the date of this Ordinance, the difference between the County’s Bonded Debt Limit and its Outstanding Eight Percent Debt is \$96,993,922, which amount is the not exceeding amount of general obligation indebtedness that the County may incur without a referendum.

(d) The County desires to fund the Public Safety Complex through the issuance and sale of its general obligation bonds pursuant to the County Bond Act in an amount not to exceed \$40,000,000.

**SECTION 2. *Authorization and Details of the Bonds.*** Pursuant to the County Bond Act, the County is authorized to issue not exceeding \$40,000,000 in general obligation bonds of the County to be designated “General Obligation Bonds of Richland County, South Carolina” (“Bonds”) for the purposes of funding the Public Safety Complex and paying the costs of issuing the Bonds. The Bonds also may be issued in one or more series, taxable or tax-exempt, from time to time as may be determined in the manner provided below with such further designation of each series to identify the year in which such bonds are issued.



The Bonds may be issued as fully registered bonds; dated the date of their delivery or such other date as may be selected by the County Administrator; may be in any whole dollar denomination or denominations of \$5,000 or any whole multiple thereof not exceeding the principal amount of the Bonds maturing in each year; shall be numbered from R-1 upward; shall bear interest from their date of issuance as may be determined by the County Administrator; and shall mature in such amounts and at such times as determined by the County Administrator.

**SECTION 3. *Delegation of Certain Details of the Bonds to the County Administrator.*** The Council delegates to the County Administrator all determinations regarding the sale and issuance of the Bonds and the form and details of the Bonds. The County Administrator is directed to consult with the County's bond counsel and financial advisor in making any such determinations. The County Administrator shall keep Council advised of the status of the sale and issuance of the Bonds.

**SECTION 4. *Registrar/Paying Agent.*** Both the principal installments of and interest on the Bonds shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. As determined by the County Administrator, the County Treasurer or a qualified financial institution shall serve as the registrar/paying agent for the Bonds ("Registrar/Paying Agent") and shall fulfill all functions of the Registrar/Paying Agent enumerated herein.

**SECTION 5. *Registration and Transfer.*** The County shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose, the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

The Bonds shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent, duly executed by the registered owner or his duly authorized attorney. Upon the transfer of the Bonds, the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee new fully registered Bonds, of the same aggregate principal amount, interest rate and maturity as the surrendered Bonds. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name the Bonds shall be registered upon the registry books as the absolute owner of such Bonds, whether such Bonds shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bonds and for all other purposes, and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bonds to the extent of the sum or sums so paid, and neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring the Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver the Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obliged to make any such transfer of the Bonds during the period beginning on the Record Date (as defined in Section 6 hereof) and ending on an interest payment date.

**SECTION 6. *Record Date.*** The County establishes a record date ("Record Date") for the payment of interest or for the giving of notice of any proposed redemption of the Bonds, and such Record Date shall be the 15th day of the calendar month next preceding an interest payment date on the Bonds or, in the case

of any proposed redemption of the Bonds, such Record Date shall not be more than 15 days prior to the mailing of notice of redemption of the Bonds.

**SECTION 7. *Lost, Stolen, Destroyed or Defaced Bonds.*** In case any Bond, at any time, is mutilated in whole or in part, or lost, stolen or destroyed, or defaced as to impair the value thereof to the owner, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver at the principal office of the Registrar/Paying Agent, or send by registered mail to the owner thereof at his request, risk and expense, a new bond of the same interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute bond shall furnish the County and the Registrar/Paying Agent evidence or proof satisfactory to the County and the Registrar/Paying Agent of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in such amount as may be required by the laws of the State of South Carolina or such greater amount as may be required by the County and the Registrar/Paying Agent. Any bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such substitute bond is issued.

All expenses necessary for the providing of any substitute bond shall be borne by the applicant therefor.

**SECTION 8. *Book-Entry System.***

(a) Notwithstanding anything to the contrary herein, so long as the Bonds are being held under a book-entry system of a securities depository, transfers of beneficial ownership of the Bonds will be affected pursuant to rules and procedures established by such securities depository. The initial securities depository for the Bonds will be The Depository Trust Company (“DTC”), New York, New York. DTC and any successor securities depositories are hereinafter referred to as the “Securities Depository.” The Bonds shall be registered in the name of Cede & Co., as the initial Securities Depository nominee for the Bond. Cede & Co. and successor Securities Depository nominees are hereinafter referred to as the “Securities Depository Nominee.”

(b) As long as the Bonds are being held under a book-entry system, the Securities Depository Nominee will be recognized as the holder of the Bonds for the purposes of (i) paying the principal, interest and premium, if any, on such Bonds, (ii) selecting the portions of the Bonds to be redeemed if the Bonds are to be redeemed in part, (iii) giving any notice permitted or required to be given to bondholders under this Ordinance, (iv) registering the transfer of the Bonds, and (v) requesting any consent or other action to be taken by the holder of such Bonds, and for all other purposes whatsoever, and the County shall not be affected by any notice to the contrary.

(c) The County shall not have any responsibility or obligation to any participant, beneficial owner or other person claiming a beneficial ownership in the Bonds which is registered to a Securities Depository Nominee under or through the Securities Depository with respect to any action taken by the Securities Depository as holder of the Bonds.

(d) The County shall pay all principal, interest and premium, if any, on the Bonds issued under a book-entry system only to the Securities Depository or the Securities Depository Nominee, as the case may be, for such Bonds, and all such payments shall be valid and effectual to fully satisfy and discharge the obligations with respect to the principal, interest and premium, if any, on such Bonds.

(e) In the event that the County determines that it is in the best interest of the County to discontinue the book-entry system of transfer for the Bonds, or that the interests of the beneficial owners of the Bonds may be adversely affected if the book-entry system is continued, then the County shall notify the Securities Depository of such determination. In such event, the County shall execute and the Registrar/Paying Agent shall authenticate, register and deliver physical certificates for the Bonds in exchange for the Bonds registered in the name of the Securities Depository Nominee.

(f) In the event that the Securities Depository for the Bonds discontinues providing its services, the County shall either engage the services of another Securities Depository or arrange with the Registrar/Paying Agent for the authentication, registration and delivery of physical certificates in the manner described in (e) above.

(g) In connection with any notice or other communication to be provided to the holder of the Bonds by the County or by the Registrar/Paying Agent with respect to any consent or other action to be taken by the holder of the Bonds, the County or the Registrar/Paying Agent, as the case may be, shall establish a record date for such consent or other action and give the Securities Depository Nominee notice of such record date not less than 15 days in advance of such record date to the extent possible.

**SECTION 9. Execution of Bonds.** The Bonds shall be executed in the name of the County with the manual, facsimile, or electronic signature of the Chairman of Council (“Chair”) and attested by the manual, facsimile, or electronic signature of the Clerk to Council under the seal of the County which shall be impressed, imprinted or reproduced thereon. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. The Bonds shall bear a certificate of authentication in substantially the form set forth in Exhibit A executed by the manual, facsimile or electronic signature of an authorized representative of the Registrar/Paying Agent.

**SECTION 10. Form of Bonds.** The Bonds shall be in the form set forth in Exhibit A as determined by the County Administrator under Section 3.

**SECTION 11. Security for Bonds.** The full faith, credit and taxing power of the County are irrevocably pledged for the payment of the principal and interest of the Bonds as they mature and to create a sinking fund to aid in the retirement and payment thereof. There shall be levied and collected annually upon all taxable property in the County an *ad valorem* tax, without limitation as to rate or amount, sufficient for such purposes.

**SECTION 12. Exemption from State Taxation.** Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the Code of Laws of South Carolina, 1976, as amended, from all South Carolina, county, municipal, school district and all other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest thereon may be includable in certain franchise fees or taxes.

**SECTION 13. Sale of Bonds, Form of Notice of Sale.** The Bonds may be sold at a public or private sale, as authorized by Section 11-27-40(4) of the Code of Laws of South Carolina, 1976, as amended, as the County Administrator may determine, using a notice of sale or other similar method to solicit offers for the purchase of the Bonds, as the County Administrator may determine.

**SECTION 14. *Deposit and Application of Bond Proceeds.*** The proceeds derived from the sale of the Bonds are to be used for the purposes set forth herein and shall be applied by the County solely to the purposes for which the Bonds have been issued.

**SECTION 15. *Preliminary and Final Official Statement.*** If required to sell the Bonds, the County authorizes and directs the County Administrator to prepare, or cause to be prepared, and use, or cause to be used, a preliminary Official Statement and a final Official Statement according to Rule 15c2-12 promulgated by the Securities Exchange Commission (“Rule 15c2-12”), and further authorizes and directs such other appropriate County staff to prepare and provide such information as may be necessary for the County Administrator to so prepare and use such preliminary Official Statement and final Official Statement in connection with the sale of the Bonds. The County Administrator is further authorized to “deem final” the preliminary Official Statement on behalf of the County in accordance with Rule 15c-12.

**SECTION 16. *Defeasance.***

(a) If any Bonds issued pursuant to this Ordinance shall have been paid and discharged, then the obligations of the Ordinance hereunder, and all other rights granted thereby shall cease and determine with respect to such Bonds. A Bond shall be deemed to have been paid and discharged within the meaning of this Section under any of the following circumstances:

(i) If a bank or other institution serving in a fiduciary capacity, which may be the Registrar/Paying Agent (“Escrow Agent”), shall hold, at the stated maturities of the Bond, in trust and irrevocably appropriated thereto, moneys for the full payment thereof; or

(ii) If default in the payment of the principal of such Bond or the interest thereon shall have occurred, and thereafter tender of payment shall have been made, and the Escrow Agent shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of payment; or

(iii) If the County shall have deposited with the Escrow Agent, in an irrevocable trust, either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America, which are not subject to redemption by the issuer prior to the date of maturity thereof, as the case may be, the principal of and interest on which, when due, and without reinvestment thereof, will provide moneys, which, together with the moneys, if any, deposited with the Escrow Agent at the same time, shall be sufficient to pay, when due, the principal, interest, and redemption premium, if any, due and to become due on such Bonds and prior to the maturity date or dates of such Bonds, or, if the County shall elect to redeem such series Bond prior to its stated maturity, and shall have irrevocably bound and obligated itself to give notice of redemption thereof in the manner provided in the Bond, on and prior to the redemption date of such Bonds, as the case may be; or

(iv) If there shall have been deposited with the Escrow Agent either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America the principal of and interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Escrow Agent at the same time, shall be sufficient to pay, when due, the principal and interest due and to become due on such Bond on the maturity thereof.

(b) In addition to the above requirements of paragraph (a), in order for this Ordinance to be discharged with respect to any Bond, all other fees, expenses and charges of the Escrow Agent have been paid in full at that time.

(c) Notwithstanding the satisfaction and discharge of this Ordinance with respect to a Bond, the Escrow Agent shall continue to be obligated to hold in trust any moneys or investments then held by the Escrow Agent for the payment of the principal of, premium, if any, and interest on, such Bond, to pay to the owners of such Bond the funds so held by the Escrow Agent as and when payment becomes due.

(d) Any release under this Section shall be without prejudice to the rights of the Escrow Agent to be paid reasonable compensation for all services rendered under this Ordinance and all reasonable expenses, charges, and other disbursements and those of their respective attorneys, agents, and employees, incurred on and about the performance of the powers and duties under this Ordinance.

(e) Any moneys which at any time shall be deposited with the Escrow Agent by or on behalf of the County for the purpose of paying and discharging any Bonds shall be and are assigned, transferred, and set over to the Escrow Agent in trust for the respective holders of such Bonds, and the moneys shall be and are irrevocably appropriated to the payment and discharge thereof. If, through lapse of time or otherwise, the holders of such Bonds shall no longer be entitled to enforce payment of their obligations, then, in that event, it shall be the duty of the Escrow Agent to transfer the funds to the County.

(f) In the event any Bonds are not to be redeemed within the 60 days next succeeding the date the deposit required by Section 16(a)(iii) or (iv) is made, the County shall give the Escrow Agent irrevocable instructions to mail, as soon as practicable by registered or certified mail, a notice to the owners of the Bonds at the addresses shown on the registry books that (i) the deposit required by subparagraph (a)(iii) or (a)(iv) of this Section 16 has been made with the Escrow Agent, (ii) the Bonds are deemed to have been paid in accordance with this Section and stating the maturity or redemption dates upon which moneys are to be available for the payment of the principal of, premium, if any, and interest on, the Bonds, and (iii) stating whether the County has irrevocably waived any rights to redeem the Bonds, or any of them, prior to the maturity or redemption dates set forth in the preceding clause (ii).

(g) The County covenants and agrees that any moneys which it shall deposit with the Escrow Agent shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Section, and whenever it shall have elected to redeem Bonds, it will irrevocably bind and obligate itself to give notice of redemption thereof, and will further authorize and empower the Escrow Agent to cause notice of redemption to be given in its name and on its behalf.

**SECTION 17. *Authority to Issue Bond Anticipation Notes.*** If the County Administrator or Chair, after consultation with the County's financial advisor or bond counsel, should determine that issuance of bond anticipation notes ("BANs") pursuant to Chapter 17 of Title 11 of the Code of Laws of South Carolina, 1976, as amended (the "BAN Act") rather than Bonds would result in a substantial savings in interest under prevailing market conditions or for other reasons would be in the best interest of the County, the County Administrator or Chair is hereby further requested and authorized to effect the issuance of BANs pursuant to the BAN Act. If BANs are issued and if, upon the maturity thereof the County Administrator and Chair should determine that further issuance of BANs rather than Bonds would result in a substantial savings in interest under then prevailing market conditions or for other reasons would be in the best interest of the County, the County Administrator and Chair are requested to continue the issuance of BANs until the County Administrator and Chair determine to issue the Bonds on the basis as aforesaid, and the Bonds are issued.

**SECTION 18. *Details of Bond Anticipation Notes.*** Subject to changes in terms required for any particular issue of BANs, the BANs shall be subject to the following particulars:

(a) The BANs shall be dated and bear interest either from the date of delivery thereof or, if the BAN is issued on a draw-down basis, from the date of each such advance, payable upon the stated maturity thereof, at the rate determined or accepted by the County Administrator and shall mature on such date, not to exceed one year from the issue date thereof, as shall be determined by the County Administrator.

(b) The BANs shall be numbered from one upwards for each issue and shall be in any whole dollar denomination or in the denomination of \$5,000 or any integral multiple thereof requested by the purchaser thereof. The BANs shall be payable, both as to principal and interest, in legal tender upon maturity, at the principal office of the Registrar/Paying Agent or, at the option of the County, by the purchaser thereof.

(c) The County Administrator and Chair are authorized to carry out the sale of the BANs and to fix the rate of interest to be borne thereby.

(d) The BANs shall be in substantially the form attached hereto as Exhibit B.

(e) The BANs shall be issued in fully registered or bearer form or a book-entry-eligible form as specified by the County, or at the option of the County, by the purchaser thereof; provided that once issued, the BANs of any particular issue shall not be reissued in any other form and no exchange shall be made from one form to the other.

(f) In the event any BAN is mutilated, lost, stolen or destroyed, the County may execute a new note of like date and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated BAN, such mutilated BAN shall first be surrendered to the County, and in the case of any lost, stolen or destroyed BAN, there shall be first furnished to the County evidence of such loss, theft or destruction satisfactory to the County, together with indemnity satisfactory to it; provided that, in the case of a holder which is a bank or insurance company, the agreement of such bank or insurance company to indemnify shall be sufficient. In the event any such BAN shall have matured, instead of issuing a substitute note, the County may pay the same without surrender thereof. The County may charge the holder of such BAN with its reasonable fees and expenses in this connection.

(g) Any BAN issued in fully-registered form shall be transferable only upon the books of registry of the County, which shall be kept for that purpose at the office of the County as note registrar (or its duly authorized designee), by the registered owner thereof or by his attorney, duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the County as note registrar, duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any BAN, the County shall issue, subject to the provisions of paragraph (h) below, in the name of the transferee, a new note or notes of the same aggregate principal amount as the unpaid principal amount of the surrendered BAN. Any holder of a BAN in fully registered form requesting any transfer shall pay any tax or other governmental charge required to be paid with respect thereto. As to any BAN in fully-registered form, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal and interest of any BAN in fully-registered form shall be made only to or upon the order of the registered holder thereof, or his duly authorized attorney, and the County shall not be affected by any notice to the contrary, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such BAN to the extent of the sum or sums so paid.

(h) BANs issued in fully registered form, upon surrender thereof at the office of the County (or at such office as may be designated by its designee) as note registrar, with a written instrument of transfer

satisfactory to the County, duly executed by the holder of the BAN or his duly authorized attorney, may, at the option of the holder of the BAN, and upon payment by such holder of any charges which the County may make as provided in paragraph (i), be exchanged for a principal amount of notes in fully registered form of any other authorized denomination equal to the unpaid principal amount of surrendered BANs.

(i) In all cases in which the privilege of exchanging or transferring BANs in fully registered form is exercised, the County shall execute and deliver notes in accordance with the provisions of this Ordinance. All BANs in fully registered form surrendered in any such exchanges or transfers shall forthwith be canceled by the County. There shall be no charge to the holder of such BAN for such exchange or transfer of BANs in fully-registered form except that the County may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer.

**SECTION 19. *Security for Bond Anticipation Notes.*** For the payment of the principal of and interest on the BANs as the same shall fall due, the full faith, credit and taxing power of the County shall be pledged. In addition thereto, so much of the principal proceeds of the Bonds when issued shall and is hereby directed to be applied, to the extent necessary, to the payment of the BANs; and, further, the County covenants and agrees to effect the issuance of sufficient BANs or Bonds in order that the proceeds thereof will be sufficient to provide for the retirement of any BANs issued pursuant hereto.

**SECTION 20. *Tax and Securities Laws Covenants.***

(a) The following covenants shall be applicable to any series of Bonds or BANs that are sold on a tax-exempt basis:

(i) The County covenants that no use of the proceeds of the sale of the Bonds or BANs authorized hereunder shall be made which, if such use had been reasonably expected on the date of issue of such Bonds or BANs would have caused the Bonds or BANs to be “arbitrage bonds,” as defined in the Internal Revenue Code of 1986, as amended (“Code”), and to that end the County shall comply with all applicable regulations of the Treasury Department previously promulgated under the Code so long as the Bond is outstanding.

(ii) The County further covenants to take all action necessary, including the payment of any rebate amount, to comply with Section 148(f) of the Code and any regulations promulgated thereunder.

(iii) The County covenants to file IRS form 8038, if the Code so requires, at the time and in the place required therefore under the Code.

(b) The County covenants and agrees that it will comply with and carry out all of the provisions of a continuing disclosure agreement, dated the date of delivery of the Bonds, which will meet the requirements of (i) Rule 15c2-12 and (ii) Section 11-1-85, Code of Laws of South Carolina, 1976, as amended.

**SECTION 21. *Authorization for County Officials to Execute Documents; Ratification of Prior Acts.*** The Council authorizes the Chair, County Administrator, Clerk to Council and other county officials or their designees (collectively, “Authorized Representatives”) to execute and consent to such documents and instruments as may be necessary to effect the intent of this Ordinance. Except as otherwise specifically stated in this Ordinance, any actions taken by any Authorized Representatives prior to the date of this Ordinance in furtherance of the issuance and sale of the Bonds or the financing of the Public Safety Complex, including the expenditure of funds and the execution of documents, are hereby approved, ratified and confirmed in all respects.

**SECTION 22. *Publication of Notice of Adoption of Ordinance.*** Pursuant to the provisions of Section 11-27-40 of the Code, the County Administrator, at his option, is authorized to arrange to publish a notice of adoption of this Ordinance.

**SECTION 23. *Retention of Bond Counsel and Other Professionals.*** The Council authorizes the County Administrator to retain the law firm of Parker Poe Adams & Bernstein LLP as its bond counsel, and the firm of First Tryon Advisors, as its financial advisor, in connection with the issuance of the Bonds.

The Council further authorizes the County Administrator to enter into such other contractual arrangements and hire such other professionals as may be necessary to effect the issuance, sale, execution and delivery of the Bonds, and the other transactions contemplated by this Ordinance.

**SECTION 24. *Reimbursement from Bond Proceeds.***

(a) This Ordinance is the County's official declaration of intent pursuant to Treasury Regulation §1.150-2 to reimburse the County for expenditures incurred and paid in connection with the Public Safety Complex on or after the date occurring 60 days prior to the date of adoption of this Ordinance from the proceeds of the Bonds or an authorized BAN ("Expenditures").

(b) The County acknowledges that Expenditures which may be reimbursed are limited to Expenditures which are (i) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Treasury Regulation §1.150-2) under general federal income tax principles, or (ii) certain *de minimis* or preliminary expenditures satisfying the requirements of Treasury Regulation §1.150-2(f).

(c) The source of funds for the Expenditures with respect to the Public Safety Complex will be the County's general fund or capital projects fund.

(d) The County acknowledges that to be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (i) the date on which the Expenditures were paid, or (ii) the date the Public Safety Complex is placed in service, but in no event more than three years after the County made the original Expenditures.

**SECTION 25. *General Repealer.*** All ordinances, rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bonds are, to the extent of such conflict, repealed and this Ordinance shall take effect and be in full force from and after its adoption.

**SECTION 26. *No Personal Liability.*** No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the County contained herein or in the Bonds or BANs, and any other incorporated or referenced documents against any elected official of the County or any officer or employee of the County, as such, in his or her individual or personal capacity, past, present or future, either directly or through the County, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Ordinance, the Bonds and BANs are solely governmental obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any director, officer or employee, as such, past, present or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the County and the owners of the Bonds or BANs or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such elected official, officer and employee is, by the enactment of this Ordinance and the execution



of the Bonds and BANs, and as a condition of, and as a part of the consideration for, the enactment of this Ordinance and the execution of the Bonds and BANs, expressly waived and released. The immunity of elected officials, officers and employees of the County and waiver and release of personal liability under the provisions contained in this Section shall survive the termination of this Ordinance and maturity of the Bonds or BANs issued hereunder.

*[Signature page follows]*

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, County Council  
Richland County, South Carolina

(SEAL)  
ATTEST:

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Clerk to County Council  
Richland County, South Carolina

READINGS:  
First Reading: September 14, 2021  
Second Reading: September 21, 2021  
Public Hearing: October 5, 2021  
Third Reading: October 5, 2021

## **SCHEDULE I**

### **PUBLIC SAFETY COMPLEX**

The purpose of these bonds is to design, update, and construct as required for operation a facility for the operation of public safety related activities including, but not limited to, Emergency 911 Communications, a technologically current forensics laboratory and offices for housing the South Carolina Probation, Pardon and Parole staff as required by section 24-21-270 Code of Laws of South Carolina, 1976, as amended.

**EXHIBIT A**

**FORM OF BOND**

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, NEW YORK, NEW YORK (“SECURITIES DEPOSITORY”), TO RICHLAND COUNTY, SOUTH CAROLINA, OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE SECURITIES DEPOSITORY (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

UNITED STATES OF AMERICA  
STATE OF SOUTH CAROLINA  
RICHLAND COUNTY  
GENERAL OBLIGATION BONDS  
[TAXABLE/TAX-EXEMPT] SERIES 2021

No. R-[]

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Issue Date</u>	<u>CUSIP</u>
[] %	[]	[]	[]

REGISTERED OWNER: []

PRINCIPAL AMOUNT: [] DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that Richland County, South Carolina (the “County”), is justly indebted and, for value received, hereby promises to pay to the Registered Owner named above, its successors or registered assigns, the principal amount shown above on the maturity date shown above, and to pay interest on such principal sum from the date hereof at the interest rate per annum shown above until the County’s obligation with respect to the payment of such principal sum shall be discharged.

[Principal and interest on this bond are payable at maturity on [ ], and will be payable by check or draft mailed to the person in whose name this bond is registered on the registration books of the County maintained by the [ ], as registrar/paying agent (the “Registrar/Paying Agent”). The principal of and interest on this bond is payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts, provided, however, that the interest on this fully registered bond will be paid by check or draft as set forth above.]

[Interest on this bond is payable semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year commencing \_\_\_\_\_ 1, 20[], until this bond matures, and shall be payable by check or draft mailed to the person in whose name this bond is registered on the registration books of the County maintained by the Registrar/Paying Agent, at the close of business on the 15th day of the calendar month next preceding each semiannual interest payment date. The principal and interest on this bond are payable in any coin or

currency of the United States of America which is, at the time of payment, legal tender for public and private debts, provided, however, that interest on this fully registered bond shall be paid by check or draft as set forth above.]

This bond is [one of an issue of bonds (the “Bonds”) of like date, of original issue, tenor and effect, except as to number, date of maturity, denomination and rate of interest, issued in an original aggregate principal amount of \_\_\_\_\_,] issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended; Chapter 15, Title 4 and Chapters 27, Title 11, Code of Laws of South Carolina, 1976, as amended; and an Ordinance duly adopted by the Richland County Council on [ ], 2021 (the “Ordinance”). All capitalized terms used but not defined in this bond will have the meanings given in the Ordinance.

This bond shall not be valid or obligatory for any purpose, until the Certificate of Authentication hereon shall have been duly executed by the Registrar/Paying Agent.

For the payment of the principal of and interest on this bond as it matures and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, resources and taxing power of the County are hereby irrevocably pledged, and there shall be levied annually by the County Auditor and collected by the County Treasurer in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this bond as it matures and to create such sinking fund as may be necessary therefor.

[The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the Securities Depository Nominee, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by participants in the Securities Depository (“Participants”), with beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such Participants. Transfers of ownership shall be effected on the records of the Securities Depository and its Participants pursuant to rules and procedures established by the Securities Depository and its Participants. The County and the Registrar/Paying Agent will recognize the Securities Depository Nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including payments of principal of and redemption premium, if any, and interest on this bond, notices and voting. Transfer of principal and interest payments to Participants of the Securities Depository will be the responsibility of the Securities Depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Bonds by Participants will be the responsibility of such Participants and other nominees of such beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the Securities Depository, the Securities Depository Nominee, its Participants or persons acting through such Participants. While the Securities Depository Nominee is the owner of this bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this bond shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Ordinance and the Securities Depository.

The Bonds maturing on or prior to \_\_\_\_\_ 1, \_\_\_\_\_, shall not be subject to redemption prior to their stated maturities. The Bonds maturing on or after \_\_\_\_\_ 1, \_\_\_\_\_, shall be subject to redemption at the option of the County on or after \_\_\_\_\_ 1, \_\_\_\_\_, as a whole or in part at any time, and if in part in such order of maturities as shall be determined by the County, at the redemption prices with respect to each Bond, expressed as a percentage of the principal amount of the Bonds to be redeemed, set forth below, together with the interest accrued thereon to the date fixed for redemption:

Period During Which Redeemed  
(both dates inclusive)

Redemption Price

If less than all the Bonds of any maturity are called for redemption, the Bonds of such maturity to be redeemed shall be selected by lot by the Registrar/Paying Agent or by the Securities Depository in accordance with its procedures. In the event this bond is redeemable as aforesaid, and shall be called for redemption, notice of the redemption hereof, describing this bond and specifying the redemption date and the redemption price payable upon such redemption, shall be mailed by the Registrar/Paying Agent by first-class mail, postage prepaid, to the registered owner hereof not less than 30 days and not more than 60 days prior to the redemption date at such owner's address as it appears upon the registration books of the County. If this bond is redeemable and shall have been duly called for redemption and notice of the redemption hereof mailed as aforesaid, and if on or before the date fixed for such redemption, payment hereof shall be duly made or provided for, interest hereon shall cease to accrue from and after the redemption date hereof.]

This bond is transferable only upon the books of the County kept for that purpose at the principal office of the Registrar/Paying Agent by the Registered Owner hereof in person or by his duly authorized attorney upon surrender of this bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or his duly authorized attorney. Thereupon a new fully registered bond or bonds of the same series, aggregate principal amount, interest rate, and maturity shall be issued to the transferee in exchange herefor as provided in the Ordinance. The County and the Registrar/Paying Agent may deem and treat the person in whose name the bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina, this bond and the interest hereon are exempt from all State, county, municipal, school district and other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest hereon may be included for certain franchise fees or taxes.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and laws of the State of South Carolina to exist, to happen and to be performed precedent to or in the issuance of this bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this bond, together with all other general obligation and bonded indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State of South Carolina; and that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the County sufficient to pay the principal and interest of this bond as they respectively become due and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, RICHLAND COUNTY, SOUTH CAROLINA, has caused this bond to be signed with the manual, facsimile or electronic signature of the Chair, attested by the manual, facsimile or electronic signature of the Clerk to County Council and the seal of the County impressed, imprinted or reproduced hereon.

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

\_\_\_\_\_  
Chair, County Council

ATTEST:

\_\_\_\_\_  
Clerk to County Council

**FORM OF CERTIFICATE OF AUTHENTICATION**

Date of Authentication: [], 2021

This bond is one of the Bonds described in the within-defined Ordinance of Richland County, South Carolina.

\_\_\_\_\_ as Registrar/Paying Agent

By: \_\_\_\_\_  
Authorized Officer

\_\_\_\_\_

The following abbreviations, when used in the inscription on the face of this bond, shall be construed as though they were written out in full according to applicable laws or regulations:

- TEN COM - as tenants in common
- TEN ENT - as tenants in entireties
- JT TEN - as joint tenants with right of survivorship  
and not as tenants in common

UNIF GIFT MIN ACT - \_\_\_\_\_  
(Cust)

Custodian \_\_\_\_\_  
(Minor)

under Uniform Gifts to Minors Act \_\_\_\_\_  
(State)

Additional abbreviations may also be used, though not in the above list.



**FORM OF ASSIGNMENT**

**FOR VALUE RECEIVED** the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Social Security No. or other Identifying Number of Assignee \_\_\_\_\_) the within Bond of Richland County, South Carolina, and does hereby irrevocably constitute and appoint \_\_\_\_\_ to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature must be guaranteed by an institution who is a participant in the Securities Transfer Agents Medallion Program ("**STAMP**") or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

**EXHIBIT B**  
**FORM OF BAN**

No. \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF SOUTH CAROLINA  
RICHLAND COUNTY  
GENERAL OBLIGATION BOND ANTICIPATION NOTE,  
[TAXABLE/TAX-EXEMPT] SERIES 2021

KNOW ALL MEN BY THESE PRESENTS that Richland County, South Carolina (the “County“) hereby acknowledges itself indebted, and for value received promises to pay to the [bearer] [registered owner] hereof, the principal sum of

\_\_\_\_\_

at the principal office of \_\_\_\_\_, in the City [ ], State of [ ], on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and to pay interest (calculated on the basis of a 360-day year consisting of twelve 30-day months) on said principal sum from the date hereof [from the date of each advance], at the rate of \_\_%, payable upon the maturity of this note. This note is [is not] subject to prepayment prior to its maturity.

Both the principal of and interest on this note are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts.

This note is one of an issue of Bond Anticipation Notes, of like date, tenor and effect, except as to numbering and denomination, aggregating \$ \_\_\_\_\_ (the “Notes”), issued by the County, pursuant to the authorization of Title 11, Chapter 17, Code of Laws of South Carolina, 1976, as amended, in anticipation of the receipt of the proceeds to be derived from the general obligation bonds of the County (“Bonds”) to be issued pursuant to and in accordance with the provisions of the Constitution and Laws of the State of South Carolina including Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended and Title 4, Chapter 15, and Title 11, Chapter 27 of the Code of Laws of South Carolina, 1976, as amended, and Ordinance No. [ ] duly adopted by the County Council of the County on [ ], 2021. The full faith, credit and taxing power of the County and the proceeds to be derived from the sale of the Bonds are pledged for the payment of the principal of and interest on the Notes.

This note and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest hereon may be included in certain franchise fees or taxes.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and Laws of the State of South Carolina to exist, to happen, or to be performed precedent to or in the issuance of this note, do exist, have happened, and have been performed in regular and due time, form and manner, and the amount of this note, and the issue of which this note is one, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, RICHLAND COUNTY, SOUTH CAROLINA, has caused this note to be signed by the manual, facsimile or electronic signature of the Chair of the County, attested by the manual, facsimile or electronic signature of the Clerk to County Council, the seal of the County impressed, imprinted or reproduced thereon and this note to be dated the \_\_\_\_ day of \_\_\_\_\_, 2021.

RICHLAND COUNTY, SOUTH CAROLINA

\_\_\_\_\_  
Chair, County Council

(SEAL)

ATTEST:

\_\_\_\_\_  
Clerk to County Council

# Richland County Council Request for Action

**Subject:**

An Ordinance making certain changes to Article I, Chapter 16 of the Code of Ordinances of Richland County relating to business licensing and regulation

**Notes:**

September 28, 2021 – The A&F Committee recommended Council approve the Business License Ordinance Amendment to comply with SC Act 176 (Business License Standardization Act.)

First Reading: October 5, 2021

Second Reading: October 19, 2021 {Tentative}

Third Reading: November 9, 2021 {Tentative}

Public Hearing: November 9, 2021



**Agenda Briefing**

<b>Prepared by:</b>	Zachary Cavanaugh	<b>Title:</b>	Director of Business Services
<b>Department:</b>	Community Planning & Development	<b>Division:</b>	Business Service Center
<b>Date Prepared:</b>	September 13, 2021	<b>Meeting Date:</b>	September 28, 2021
<b>Legal Review</b>	Elizabeth McLean via email	<b>Date:</b>	September 22, 2021
<b>Budget Review</b>	James Hayes via email	<b>Date:</b>	September 14, 2021
<b>Finance Review</b>	Stacey Hamm via email	<b>Date:</b>	September 21, 2021
<b>Approved for consideration:</b>	Assistant County Administrator	Aric A Jensen, AICP	
<b>Committee</b>	Administration & Finance		
<b>Subject:</b>	Business License Ordinance Amendment to comply with SC Act 176		

**STAFF’S RECOMMENDED ACTION:**

Staff recommends approval of Business License Ordinance Amendment to comply with SC Act 176 (Business License Standardization Act).

Request for Council Reconsideration:  Yes

**FIDUCIARY:**

Are funds allocated in the department’s current fiscal year budget?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
If no, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

**ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:**

There is no anticipated fiscal impact.

**COUNTY ATTORNEY’S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:**

This is a “working” copy. The County Attorney’s Office may have additional, suggested changes as the readings move forward.

**REGULATORY COMPLIANCE:**

SC Act 176 requires all business license taxing jurisdictions to comply with SC Act 176 by December 31st 2021.

**MOTION OF ORIGIN:**

This is a staff initiated request. There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

## STRATEGIC & GENERATIVE DISCUSSION:

In 2020, the General Assembly passed Act 176, the SC Business License Standardization Act. The law requires that jurisdictions with a business license requirement now all use a single due date-April 30th and a standard license year period of May 1st to April 30th. Other licensing practices must be standardized as well, including the method of calculating a business's gross income, the setting of rate classes, as well as acceptance of a standard license application and acceptance of payments from a statewide online payment center. All taxing jurisdictions have until January 1, 2022 to implement these changes to their current business license practices.

### *Planned Activities*

Adjust our current business license year to May 1-April 30. This will extend Richland County's renewal deadline from March 15th to April 30th.

Once the license year has been changed, the Business Service Center will need to alert all businesses of the change prior to and during the license renewal process.

Staff must assign each of their business license records a correct 2017 North American Industry Classification System (NAICS) code using 6 digit numbers which allows the license official to bundle individual businesses into similar industry groups. (This has already been completed)

The license official will need to ensure each business is assigned to the correct, state-mandated rate class using the 2021 Class Schedule, which is obtained from our business license standardization liaison at MASC.

The license official must also rebalance their business license tax rates to ensure revenue neutrality during the 2022 business license cycle. The business license data should be exported into an excel spreadsheet and once the data is deemed accurate the license official should begin reviewing the license tax rate for each class and suggest changes to the rates, if necessary to achieve a revenue-neutral result. The purpose of this "rebalancing" is to ensure the taxing jurisdiction does not collect more business license taxes in 2022 than it did in the 2020 license year.

By the end of 2021, Richland County must set up an account with the state-mandated Local Business License Renewal Center, which allows businesses to renew their licenses online with any city or county in the state. The SC Revenue and Fiscals Affairs Office hosts and manages the Renewal Center, with MASC providing support.

## ADDITIONAL COMMENTS FOR CONSIDERATION:

None.

## ATTACHMENTS:

1. Draft amended ordinance

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-21HR

AN ORDINANCE MAKING CERTAIN CHANGES TO ARTICLE I, CHAPTER 16 OF THE CODE OF ORDINANCES OF RICHLAND COUNTY RELATING TO BUSINESS LICENSING AND REGULATION.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations; is hereby amended by deleting all of the language in Article I and inserting:

ARTICLE I. IN GENERAL

Sec. 16-1. License Required.

Every person engaged or intending to engage in any calling, business, occupation or profession, whether or not it is listed in the rate classification index portion of the Business License Fee Schedule, in whole or in part, within the unincorporated areas of the county is required to submit a completed application for a business license accompanied by the appropriate fees for the privilege of doing business in the county and to obtain a business license as herein provided, except those as noted in Section 16-7.

Sec. 16-2. Definitions.

The following words, terms, and phrases, when used in this article shall have the meaning ascribed herein, except where the context clearly indicates or requires a different meaning:

- (1) Business means a calling, occupation, profession or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly. A charitable organization shall be deemed a business unless the entire proceeds of its operation are devoted to charitable purposes. For the purposes of this article, business does not include a wholesaler who does not maintain a warehouse or distribution establishment within the County.
- (2) Charitable organization means a person:
  - (a) determined by the Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code; or
  - (b) that is or holds itself out to be established for any benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety; or
  - (c) that employs a charitable appeal as the basis of solicitation or an appeal that suggests that there is a charitable purpose to a solicitation, or that solicits or obtains contributions solicited from the public for a charitable purpose.

(3) Charitable purpose means a purpose described in Section 501(c)(3) of the Internal Revenue Code or a benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic, or other eleemosynary objective, including an objective of an organization of law enforcement personnel, firefighters, or other persons who protect the public safety if a stated purpose of the solicitations includes a benefit to a person outside the actual service membership of the organization.

(4) Classification means a division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by County Council.

(5) Construction Manager means any self-employed individual, firm, partnership, corporation, or group which supervises or coordinates construction of any building, highway, sewer, grading, improvement, re-improvement, structure, or part thereof. Notwithstanding payment by fixed price, commission, fee, or wage, said construction manager shall be classified in the category of construction contractors for purposes of this article and shall pay a license fee based upon the total cost of the undertaking supervised or coordinated, except as otherwise exempted.

(6) Contractor means any self-employed individual (not reporting income taxes on the IRS Form W2), firm, partnership, corporation, or group performing a service or providing a product subsequent to a contract signed by that party and another party.

(7) County means the County of Richland.

(8) Domicile means a principal place from which the trade or business of a licensee is conducted, directed, or managed. A licensee may have more than one domicile.

(9) Drinking Place means any business which obtains the majority, not necessarily at least 50.1%, of its gross income from the sale or provision of alcohol for onsite consumption.

(10)(a)(i) Gross income means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within Richland County. For a licensee who has a domicile in the County, business done within the County shall include all gross receipts or revenue received or accrued by such person or business, excepting income earned outside of the County on which a license tax is paid by the person or business to some other county or municipality and fully reported to the County. For a licensee who does not have a domicile in the County, business done within the County shall include only gross receipts or revenue received or accrued within the County. In all cases, if the licensee pays a business license fee to another county or municipality, then the taxpayer's gross income for the purpose of computing the tax within the County must be reduced by the amount of gross income taxed in the other county or municipality.

(ii) Gross income for agents means gross commissions received or retained. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.

(iii) Gross income for insurance companies means gross premiums written.

(iv) Gross income for manufacturers of goods or materials " is the lesser of gross income collected from business done at the location within the County, the amount of income allocated and apportioned to that location by the business for purposes of the business's state income tax return, or the amount of expenses attributable to the location as a cost center of the



business. Manufacturers include those licensees reporting a manufacturing principal business activity code on their federal income tax returns.

(v) Gross income for telecommunications providers is subject to the provisions of Article 20, Chapter 9, Title 58.

(b) Gross income for business license tax purposes may not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade in merchandise may be included in gross income.

(c) The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other governmental agencies.

Gross income means the total revenue of a business, received or accrued, for one calendar or fiscal year, collected or to be collected by a business within the county, excepting therefrom business done wholly outside of the county on which a license fee is paid to some other county or a municipality and fully reported to Richland County.

~~Gross income for brokers or agents means gross commissions received or retained, unless otherwise specified. Gross income for business license fee purposes shall not include taxes collected for a governmental entity (such as sales taxes), escrow funds, or funds that are the property of a third party. The value of bartered goods or trade in merchandise shall be included in gross income. The gross income for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agency.~~

(11) Gross receipts means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character and all receipts, by the reason of any business engaged in, including interest, dividends, discounts, rentals of real estate or royalties, without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever, and without any deductions on account of losses.

(12) Insurance company refers to a business which meets the definition established in South Carolina Code of Laws, § 38-1-20, Definitions: an insurer defined as “any corporation, ... or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance [defined as a “contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies”] or surety business, including the exchanging of reciprocal or inter-insurance contracts between individuals, partnerships, and corporations”, and does not meet the criteria for a health maintenance organization as covered by South Carolina Code of Laws, § 38-33-104(D).

(13) Licensee means the business or the person applying on for a license on behalf of a business, an agent or legal representative or a business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

(14) License official means a county employee who is designated to administer this article, and/or his/her designee.

(15) Person means any individual, firm, partnership, LLP, LLC, cooperative, nonprofit membership, corporation, joint venture, professional association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the

singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.

(16) Sexually Oriented Business means a sexually oriented business as defined within Section 26-22 of the Richland County Code of Ordinances.

(17) Wholesaler means a business that specializes in the sale of goods to an individual who will resell the goods. The sale includes the delivery of goods to the reselling individual. A wholesaler does not sell goods to a user or a final consumer.

#### Sec. 16-3. Purpose and Duration.

- (1) The requirement of a business license is for the purpose of assuring that a business conducted within unincorporated Richland County complies with all applicable State and County regulations and requirements in order to protect the health, safety and welfare of the citizens of the County. Additionally, the requirement of a business license fee levied by this article serves to establish an excise tax for the privilege of doing business within unincorporated Richland County.
- (2) Each license that is issued shall be valid for one calendar year, beginning on January 1 and expiring on December 31. This time period shall be considered a license year. The provisions of this article and the rates set out in this article shall remain in effect from year to year as amended by the County Council. The license of a licensee who has applied for and received a business license through December 31, 2021 shall continue until April 30, 2022. Each license issued thereafter shall be issued for the twelve-month period beginning on May 1 and ending April 30.
- (3) Notwithstanding the provisions of subsection (2), the county may issue a business license to a contractor with respect to a specific construction project which may, at the request of the licensee, expire at the completion of the construction project.
- (4) The provisions of this article and the rates set out in this article shall remain in effect from year to year as amended by the County Council.

#### Sec. 16-4. License Fee.

(1) The required license fee shall be paid for each business subject to this article according to the applicable rate classification on or before May 1 of each year and the county may impose a penalty on a licensee who has not paid by this date. However, an admitted insurance company may pay before June 1 without penalty.

(2) A separate license shall be required for each place of business and for each classification of business conducted at one place. If gross income cannot be separated for classifications at one location, the license fee shall be computed on the combined gross income for the classification requiring the highest rate.

(3) A license fee based on gross income shall be computed on the gross income for the preceding calendar or fiscal year, and on a 12-month projected income based on the monthly average for a business in operation for less than one year. The fee for a new business shall be computed on the estimated or probable gross income stated in the license application for the balance of the calendar year, or if the estimated or probable gross income is unknown, shall be computed on the average actual first-year income of all similar businesses, identified by NAICS codes, and updated prior to renewing for the following year.

(4) Unless otherwise specifically provided, all minimum fees and rates shall be multiplied by 200 percent for nonresidents and for itinerants having no fixed principal place of business within the county.

#### Sec. 16-5. Classification and Rates.

(1) The County Council shall, by ordinance and in conjunction with the passage of the yearly budget ordinance, establish and approve a Business License Fee Schedule upon the adoption of the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the Revenue and Fiscal Affairs office by December 31 of every odd year. ~~establish and approve a Business License Fee Schedule providing a business license rate for each Class of businesses subject to this article. If the County Council fails to fix such rates for a particular calendar year, the rates previously adopted by the County Council shall continue to govern until new rates are fixed. County Council, at its discretion, may also amend, at any time, by ordinance, the Business License Fee Schedule, to establish new rates, to be effective and payable for the following calendar year.~~

(2) The sectors of businesses included in each Rate Class are listed with the United States North American Industry Classification System (NAICS) codes. The alphabetical index in the Business License Fee Schedule is a tool for classification, not a limitation on businesses subject to a license fee. The License Official shall determine the proper class for a business according to the applicable NAICS manual or website, whether or not the business is listed in the alphabetical index. The County may, upon a finding of a rational basis as explained in its ordinance and by a positive majority vote of the County Council, provide for additional reasonable subclassifications described by a NAICS sector, subsector, or industry, based upon particularized considerations as needed for economic stimulus or the enhanced or disproportionate demands by a specific business subclassification on the County's services or infrastructure.

(3) ~~Any business license covering a year prior to 2008 but obtained on or after January 1, 2008 will be calculated based on the rate structure established in the Business License Fee Schedule and with the rates in the Business License Fee Schedule in effect at the time the business license is obtained.~~

~~(4)~~ (a) One decal shall be required for each vehicle used by contractor companies for going to and from job sites to identify their business as being properly licensed. Decals shall cost no more and no less than the cost to produce the decal, rounded up to the nearest quarter value.

(b) Taxis, limos, and shuttles shall post one taxi or shuttle decal on each vehicle. Vehicles registered in Richland County shall be charged \$110 per decal; vehicles not registered in Richland County shall be charged \$165 per decal.

~~(5)~~(4) (a) All rates, including the cost of decals and stickers, shall be automatically adjusted every three years by July 1, to be effective the following January 1, to account for changes in the Consumer Price Index (CPI). The adjustment shall be made in the following manner: the CPI, using the CPI calculation used by the County in other contexts, for the previous three years shall be determined and averaged together. The rates described in the Business License Fee Schedule shall be increased by the sum of the three-year average CPI for each of the last three years. (Rates shall be rounded up to the nearest nickel value; fees for decals and stickers shall be rounded up to the nearest quarter value.)

(b) If County Council increases the rates independent of the automatic CPI increases, the next CPI increase shall not be calculated until the third year, by July 1, following the County Council increase.

#### Sec. 16-6. Registration Required.

(1) The owner, agent, or legal representative of every business subject to this article, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year. A new business shall be required to have a business license prior to operation within any unincorporated area of the county.

(2) Application shall be on a form provided by the License Official which shall contain the social security number and/or the federal employer's identification number, the South Carolina Retail License Number (if applicable), the business name as reported on the South Carolina income tax return, the business name as it appears to the public at the physical location, and all information about the applicant and the business deemed appropriate to carry out the purpose of this article by the License Official. Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross income figures.

(3) The applicant shall certify that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any unauthorized deductions, that all funds due to the county have been paid, and that all other licenses and permits required by the county or state to do business in the county have been obtained.

(4) No business license shall be issued until the applicant has obtained all other licenses and/or permits required by the County or State to do business in the County, and paid in full any associated license and permit fees or business-related fees and taxes, including any late fees or penalties.

(5) As a prerequisite to submittal of a business license application, the premises and real property to be used as a business must be in compliance with all applicable state and local health, fire, zoning and building codes or regulations. As part of the Business License application, the applicant must submit to the License Official documentation that shows that the premises is currently in compliance with the Richland County Zoning Ordinance, Building Code, Electrical Code, Mechanical Code, Plumbing Code, Roofing Code and other applicable regulatory Codes as adopted by the County Council.

(6) Insurance agents and brokers shall report the name of each insurance company for which a policy was issued and the total premiums collected for each company for each type of insurance coverage on a form approved by the License Official. An insurance agent not employed by an insurance company or employed by more than one insurance company shall be licensed as a broker.

(7) Fireworks sales: Any establishment desiring to sell fireworks must first acquire the Annual State Board of Pyrotechnic Safety License and must meet all regulations pursuant to the provisions of Regulation 19-405, S.C. Code of Laws for 1976. Prior approval of the Richland County Sheriff's Department is required as governed by regulations of the State Fire Marshal pursuant to the 1976 Code, Chapter 9 of Title 23, and Chapter 43 of Title 39, governing the transportation and use of pyrotechnics.

(8) Miscellaneous sales (antique malls, flea markets or leased space sales): Any person leasing space for the sale of merchandise from an established business shall be required to have a business license, whether or not the sales are made through a central cash register. Furthermore,

it shall be the responsibility of the lessor of the spaces to advise the business license office of persons leasing space.

Sec. 16-7. Deductions, Exemptions, Charitable Organizations, and Determination of Classification.

(1) No deductions from gross income shall be made except as follows:

(a) Income from business done wholly outside of the county jurisdiction on which a license fee is paid to another county or to any municipality, taxes collected for a governmental entity, or income which cannot be taxed pursuant to state or federal law. The applicant shall have the burden to establish the right to deduction by satisfactory records and proof by including with the business license application, either new or renewing, a separate itemized list showing all deductions claimed, or no deductions will be allowed. Deductions will be approved as authorized by this section.

(b) Businesses whose business activity(ies) are described by the North American Industry Classification System (NAICS) with codes beginning with 4411 or 4412, which includes the following:

1. New and Used Automobile Dealers (441110 and 441120);
2. Recreational Vehicle Dealers (441210);
3. Motorcycle, ATV, and Personal Watercraft Dealers (441221);
4. Boat Dealers (441222); and
5. All Other Motor Vehicle Dealers (441229).

These businesses shall be authorized to deduct the amounts paid to customers in exchange for motor vehicle trade-ins as part of sales transactions.

(c) Income from sales generated by interstate commerce, i.e. sales of goods or products across state lines. Provided, however, such deducted income shall be included in the business' reported gross income.

(2) Exemptions.

(a) No person shall be exempt from the requirements of this article by reason of the lack of an established place of business within the County, unless exempted by state or federal law.

(b) The following businesses, occupations or professions are exempt from the requirements of this article:

1. Teachers;
2. Ministers, pastors, preachers, rabbis and other leaders of commonly recognized religious faiths;
3. Telephone, telegraph, gas and electric and other utilities or providers regulated by the South Carolina Public Service Commission;
4. Insurance companies; and
5. An entity which is exempt from license tax under any state law other than South Carolina Code of Laws, § 4-9-30(12), or a subsidiary or affiliate of any such exempt entity.

(c) No person shall be exempt from this article by reason of the payment of any other tax or fee, unless exempted by State law, and no person shall be relieved of the liability for the payment of any other tax or fee by reason of the application of this article.

(3) In lieu of the license required by Section 16-1, a participant in a single annual event of not more than ten consecutive calendar days in length may be issued a permit at the rate of \$10.00 on

gross income on the first \$2,000.00 and \$1.20 on each additional \$1,000.00 of gross income or fraction thereof. This permit will be valid only for the time period specified thereon and can be obtained for no more than one event annually. Organizers of such events may pay for and obtain a business license on behalf on all its vendors at a rate of \$10 per vendor or on the previous year's income generated by the event based upon the rate above, whichever is greater.

Inspections prior to the issuance of a permit may be waived. Inspections may be conducted during the event. For purposes of this subsection, an event is defined as participation by a group of exhibitors or others where displays are established in individual booths or stalls for the purpose of presenting to the audience goods, wares, merchandise or services offered for sale, rent or promotional purposes or for the general good will of the exhibitors. An event may be a trade show, an antique show, a craft show, or any other type of show fitting this definition.

(4) Notwithstanding any provision to the contrary, businesses and individuals defined as contractor herein shall be exempt from the provisions of this article in the following manner:

The business license fee shall be reduced by excluding that portion of the business' gross income generated from work done for which a Richland County building permit was obtained and a building permit fee paid (by either the general contractor or subcontractor responsible for that work), pursuant to the provisions of Section 6-51 of the Richland County Code of Ordinances.

If all income of a contractor is generated from work done for which a building permit fee is paid (by either the general contractor or subcontractor responsible for that work), said contractor shall be exempt from paying any business license fee. Such an exempt contractor shall still submit a business license application by the deadline with documentation attached establishing such contractor's right to an exemption.

Income generated from work done for which a Richland County building permit is not required, such as general repairs, shall be subject to a business license fee on that income.

(5) Charitable organizations which have exemptions from state and federal income taxes and/or are 501(c)(3) organizations according to the IRS Tax Code and where all proceeds are devoted to charitable purposes are exempt from a business license fee. Documentation of the claim to this exemption must be provided.

(6) The provisions of this article shall not extend to persons who grow their own agricultural produce or products, and use the Columbia State Farmers' Market, or other farmers' markets officially recognized by the County, to sell their produce directly to consumers.

(7) The License Official shall determine the appropriate classification for each business.

#### Sec. 16-8. False Application Unlawful.

It shall be unlawful for any person subject to the provisions of this article to make a false application for a business license, or to give or file, or direct the giving or filing of any false information with respect to the license or fee required by this article.

#### Sec. 16-9. Display and Transfer.

(1) All persons shall display the license, with the business name as it appears at the physical location, issued to them on the original form provided by the License Official in a conspicuous place in the business establishment at the physical location shown on the license. A transient or non-resident shall carry the license upon his or her person or in a vehicle used in the business

readily available for inspection by any authorized agent of the County. Authenticated copies shall be available at an additional cost per copy, established by the License Official.

(2) A change of address must be reported to the License Official within ten (10) business days after removal of the business to a new location and the license will be valid at the new address upon written notification of the License Official and compliance with zoning and building codes. Failure to obtain the approval of the License Official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable, and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on the prior business' income.

#### Sec. 16-10. Administration, Enforcement.

(1) The License Official shall administer the provisions of this article, collect license fees, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or revocation procedures, report violations to the appropriate department, and assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this article, and perform such other duties as may be assigned by the County Administrator.

(2) The Planning and Development Services Department, Building Codes and Inspections Department, Fire Marshal's Office, and Sheriff's Department, in addition to the License Official, are hereby empowered to make or initiate investigations to ensure compliance with the provisions of this article and to initiate prosecution of violations.

#### Sec. 16-11. Inspection and Audits.

(1) For the purpose of enforcing the provisions of this article, the License Official or other authorized agent of the county is empowered to enter upon the premises of any person subject to this article to make inspections and to examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct license fee and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license fee shall constitute a separate offense.

(2) The License Official shall make systematic and random inspections and audits of all businesses within the county to ensure compliance with this article. Records of inspections and audits shall not be deemed public records, and the License Official shall not release the amount of license fees paid or the reported gross income of any person by name without written permission of the licensee, provided that statistics compiled by classifications may be made public.

(3) The License Official, upon approval of the County Administrator, may disclose gross income of licensees to the Internal Revenue Service, State Departments of Revenue, Richland County Auditor, Richland County Business Service Center Appeals Board, and other State, County, and municipal business license offices for the purpose of assisting tax assessments, tax collections, and enforcement. Such disclosures shall be for internal, confidential, and official use of these governmental agencies and shall not be deemed public records.

#### Sec. 16-12. Assessments.

(1) When a person fails to obtain a business license or to furnish the information required by this article or by the License Official, the License Official shall proceed to examine such records of the business or any other available records as may be appropriate and to conduct such investigations and statistical surveys as the License Official may deem appropriate to assess a license fee and penalties as provided herein.

(2) A notice of assessment shall be served by certified mail. An application for adjustment of the assessment may be made to the License Official within five (5) business days after the notice is mailed or the assessment will become final. The License Official shall establish by regulation the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.

(3) A final assessment may be appealed to the Business Service Center Appeals Board, as described in Section 16-18.

#### Sec. 16-13. Delinquent License Fees, Partial Payment.

(1) A license fee shall be considered delinquent if all or any part of such fee has not been paid on or before **April 30** of each calendar year. Businesses providing business license payments by the deadline but which have: a) indebtedness to the County, or b) have not yet obtained other necessary permits or licenses, or c) have not met other requirements necessary to obtain a business license, as specified in Section 16-6, shall accrue penalties until the indebtedness is cleared, the permits or licenses obtained, or met the other requirements necessary to obtain a business license, at which time the business license application processing may continue.

(2) Partial payment may be accepted by the License Official to toll imposition of penalties as authorized in Section 16-22 on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the balance due, with penalties, has been paid.

#### Sec. 16-14. Notices.

The License Official may, but shall not be required to, mail written notices that license fees are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the county three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the fee due or grounds for waiver of penalties.

#### Sec. 16-15. Denial of License.

(1) The License Official shall deny a license to an applicant if:

- (a) the application is incomplete;
- (b) the application contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact;
- (c) the applicant has given a bad check or tendered illegal consideration for any license fee;
- (d) within five years from the date of application, the applicant has been convicted of or pled guilty or nolo contendere any crime(s) or offense(s) under South Carolina Code of Laws, Title 16, Crimes and Offenses, Chapter 13, Forgery, Larceny, Embezzlement, False Pretenses and Cheats; Chapter 14, the Financial Transaction Card Crime Act; or South Carolina Code of



Laws, § 39-15-1190, Sale of Goods or Services with a Counterfeit Mark; or the same crime or offense in another jurisdiction;

(e) the premises and parcel of real property to be used for the business activity for which a license is sought is not in compliance with applicable state and/or local health, fire, zoning, and building codes and regulations;

(f) the business activity for which a license is sought is unlawful; or

(g) the business constitutes a public nuisance as determined by a court of law.

A decision of the License Official shall be subject to appeal to the Business Service Center Appeals Board as herein provided. Denial shall be written with reasons stated.

#### Sec. 16-16. Drinking Places.

(1) No license to operate a drinking place shall be issued to, or in the name of, a corporation, association, or a trade name as such. Any application for a corporation, association, or trade name shall be made by the officers for its use, and such officers shall identify in the application the name by which the business will be operated. In addition, such officers in making an application shall be held to assume all responsibility there under as individuals, and shall be subject to all the provisions and penalties set forth herein or in any other article of the Richland County Code of Ordinances.

(2) In addition to the reasons for denial of a license set forth in Section 16-5 of this article, the License Official shall deny a business license to an applicant for a Drinking Place if the applicant or an agent of such applicant who has or will have actual authority to control and manage the business proposed to be operated:

(a) is a minor;

(b) has had an alcohol liquor license issued in the name of the applicant or other officer pursuant to South Carolina Code of Laws, § 61-6-10 et seq. suspended, revoked, or not renewed within a two-year period immediately preceding the filing of the application; or

(c) has had a business license revoked or denied under the provisions of this article within a three-year period immediately preceding the filing of the application.

#### Sec. 16-17. Sexually Oriented Businesses.

(1) The purpose of this section is to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of Richland County, and to establish reasonable and uniform regulations to prevent or reduce to any extent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials or expression. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials or expression protected by the First amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution or exhibition of obscenity.

(2) Based on evidence of the adverse secondary effects of sexually oriented businesses presented in hearings and reports made available to the Richland County Council, and on the findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, LLC*, 124 S. Ct. 2219 (2003); *City of Los Angeles v. Alameda Books*,

Inc., 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, All U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *Chesapeake B&M, Inc. v. Harford County*, 58 F.3d 1005 (4th Cir. 1995); *Giovani Carandola, Ltd. v. Fox*, 470 F.3d 1074 (4th Cir. 2006); *Centaur v. Richland County*, 392 S.E.2d 165 (S.C. 1990); *U.S. v. Pendergrass*, Petition to Enter a Plea of Guilty and Plea Agreement on the Charge of Tax Evasion (3:06-00147, M.D. Term. 2007); and other cases; and on reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona (1979); Minneapolis, Minnesota (1980); Houston, Texas (1987); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City, Oklahoma (1986); El Paso, Texas (1986); New York City, New York (1994); Dallas, Texas (1997); Newport News, Virginia (1996); New York Times Square Study (1994); Phoenix, Arizona (1995-1998); Greensboro, North Carolina (2003); Toledo, Ohio (2002); Centralia, Washington 2004; Greensboro, North Carolina (2003); and also from the reports of *Sexually Oriented Businesses: An Insider's View*, by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, January 12, 2000; *Survey of Appraisers Fort Worth & Dallas, Effects of Land Uses on Surrounding Property Values*, by Duncan Associates, September 2004; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Richland County Council finds:

(a) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, and sexual assault and exploitation.

(b) Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating in the future. This substantial government interest in preventing secondary effects, which is the County's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to future secondary effects that could occur in the County related to current sexually oriented businesses in the future as well as sexually oriented businesses that may locate in the County in the future. The County finds that the cases and secondary effects documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

(3) No license to operate a sexually oriented business shall be issued to, or in the name of, a corporation, association, or a trade name as such. Any application for a corporation, association, or trade name shall be made by the officers for its use, and such officers shall identify in the application the name by which the business will be operated. In addition, such officers in making an application shall be held to assume all responsibility there under as individuals, and shall be subject to all the provisions and penalties set forth herein or in any other article of the Richland County Code of Ordinances.

(4) Notwithstanding the pre-application process wherein an applicant must obtain documentation of compliance with all applicable state and local health, fire, zoning, and building codes or regulations pursuant to section 16-6(5) of this ordinance, upon application for a business license by an applicant identifying the business as a sexually oriented business, the

License Official must circulate a form on which compliance shall be certified by the officials administering the applicable zoning, fire, building and health regulations. The applicable aforementioned officials shall determine compliance with their respective codes or regulations and inform the License Official of their determination within thirty days from the earliest date of receipt of the compliance form by any one of the aforementioned officials. If the License Official does not receive a particular determination of compliance from an official administering the aforementioned codes and regulations on or before this thirty-day time period, that compliance determination not received by the License Official shall be deemed approved. All other compliance determinations received before the thirty-day time period expires shall be unaffected by any other compliance determination that fails to meet the thirty-day time period.

(5) During the time in which an application for a pre-existing Sexually Oriented Business is pending, the applicant may continue its business activity and shall not be subject to citations for violations of any provision of this article, nor any enforcement proceedings pursuant to this article or Section 1-8 of this Code of Ordinances.

(6) The License Official shall approve or deny an application for a license for a Sexually Oriented Business within thirty days (30) calendar days from the date of receipt of the application. If the License Official fails to either approve or deny the application within thirty calendar days, then the application shall be deemed approved and business activity may begin or continue immediately, notwithstanding the fact that no license has been issued.

(7) In addition to the reasons for denial of a license set forth in Section 16-15 of this article, the License Official shall deny a business license to an applicant for a Sexually Oriented Business if the applicant or an agent of such applicant who has or will have actual authority to control and manage the business proposed to be operated:

(a) is under the age of eighteen;

(b) within five years of the date of application, has been convicted of or pled guilty or nolo contendere to any of the following crimes: South Carolina Code of Laws, § 16-15-90, § 16-15-100, § 16-15-305, § 16-15-325, § 16-15-335, § 16-15-342, § 16-15-345, § 16-15-355, § 16-15-365, § 16-15-385, § 16-15-387, § 16-15-395, § 16-15-405, § 16-15-410, § 16-15-415, or § 16-15-425, or of the same crime in any other jurisdiction.

(8) Applicants for a sexually oriented business herein described, in addition to the license application(s) required under Section 16-1 of this article, shall complete a sworn, notarized statement on a form prepared by the License Official for the purpose of establishing his/her qualifications to operate a business identified in this section.

(9) Owners of sexually oriented businesses are responsible for maintaining a list of their current contractors' names and a copy of a photo ID for each contractor on file.

(Ord. No. 044-08HR, § V, 7-15-08)

#### Sec. 16-18. Revocation of License.

When the License Official determines that:

- (a) a license has been mistakenly or improperly issued or issued contrary to law; or
- (b) a licensee has breached any condition upon which the license was issued or has failed to comply with any provision of this article; or
- (c) a licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application;
- (d) has given a bad check or tendered illegal consideration for any license fee; or

(e) the business activity for which a license was obtained has proven to be a public nuisance as determined by a court of law; or

(f) the business has proven to be a public nuisance as determined by a court of law; the License Official shall give written notice of intent to revoke to the licensee or the person in control of the business within the County by personal service or certified mail stating the License Official's basis for revocation and setting forth a date and time for a hearing before the Business Service Center Appeals Board for the purpose of determining whether the license should be revoked. The hearing shall be held within thirty (30) days from the date of service of the notice. A licensee who received proper notice yet fails to appear or defend at the revocation hearing waives his or her right to contest the revocation.

#### Section 16-19. Appeals.

(1) Any person aggrieved by the following actions or decisions made by the License Official may bring an appeal to the Business Service Center Appeals Board:

- a. A final assessment pursuant to Section 16-12;
- b. Charge backs or other adjustment to the business license fee as determined by an audit conducted pursuant to Section 16-11;
- c. A revocation or a denial of a business license pursuant to Section 16-15 or Section 16-18;
- d. Imposition of a business license penalty; or
- e. A decision or determination made by the License Official concerning the proper classification of a business or the proper calculation of business license fees. This ground for appeal shall not be construed to authorize appeals based on objections to the business license fee structure established by Richland County Council.

(2) Those wishing to appeal must first file a written appeal with the License Official for decision by the Business Service Center Appeals Board. The Business Service Center Appeals Board, or its designee, is authorized to reject an appeal for failure to comply with the requirements of this subsection. The following requirements for submission of an appeal must be strictly complied with:

- a. The appeal must be in writing and state the reasons for the appeal.
- b. The appeal shall be filed with the License Official within fifteen (15) business (10) days after the payment of all applicable fees and penalties, including assessments or charge-backs of an audit, and within twenty (20) business days after receipt of the License Official's written and certified mailed notification of an assessment, charge backs of an audit, or notice of denial or revocation.
- c. The written notice of appeal must be accompanied by an administrative fee (which shall be determined by the License Official) that will be used to partially defray the costs incurred in connection with the administration of appeals. Payment under protest of all applicable fees and penalties, an assessment, or audit charge backs shall be a condition precedent to appeal. The fee will be refunded in the event of final resolution of the appeal in favor of the appellant.

(3) An appeal or a hearing on revocation shall be held by the Appeals Board within thirty (30) calendar days, or as soon as reasonably possible, after receipt of a request for appeal or service of notice of suspension or intent to revoke. The applicant or licensee shall be given written notice as to the date and time of the meeting. At the meeting, all parties have the right to be represented by counsel and to present testimony and evidence. The proceedings shall be recorded and

transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by the Board shall govern the hearing.

(4) In the event of an appeal of business license penalties paid, the Appeals Board may waive a business license penalty paid only if any of the following circumstances of reasonable cause are proven by the applicant:

a. An unexpected and unavoidable absence of the appellant from South Carolina, such as being called to active military duty. In the case of a corporation or other business entity, the absence must have been an individual having primary authority to pay the business license fee.

b. A delay caused by death or serious, incapacitating illness of the appellant, the appellant's immediate family, or the appellant's accountant or other third party professional charged with determining the business fee owed. In the case of a corporation or other business entity, the death or serious, incapacitating illness must have been an individual having primary authority to pay the business license fee.

c. The business license fee was documented as paid on time, but inadvertently paid to another taxing entity.

d. The delinquency was caused by the unavailability of necessary records directly relating to calculation of business fees, over which the appellant had no control, which made timely payment impossible. For example, the required records may have been destroyed by fire, flood, federally-declared natural disaster, or actions of war or terrorism. Unavailability of records caused by time or business pressures, employee turnover, or negligence are not reasonable cause for waiver of business license penalties.

e. The delinquency was the result of clear error on the part of the License Official or Business Service Center staff in processing or posting receipt of appellant's payment.

f. Delay or failure caused by good faith reliance on erroneous guidance provided by the License Official or other staff, so long as complete and accurate information was given to the Business License Service Center, no change in the law occurred, and the appellant produces written documentation.

(5) The Board shall, by majority vote of members present, render a written decision based upon findings of fact and the application of the standards herein which shall be served upon all parties or their representatives within fifteen (15) calendar days, or as soon as reasonably possible, after the hearing. The decision of the Board shall be final unless appealed to County Council with ten (10) calendar days after service of the Board's decision. County Council shall review the record and without further hearing affirm, modify, or deny the appeal in the event of an error of fact by the Board. The decision of Council shall be final unless appealed to a court of competent jurisdiction within ten (10) calendar days after service of County Council's decision.

#### Section 16-20. Consent, Franchise or Business License Fee Required.

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set pursuant to the agreement, and shall be consistent with limits set by State law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license fees unless specifically provided by the franchise or consent agreement.

#### Section 16-21. Confidentiality.

Except in accordance with proper judicial order, pursuant to an appeal, or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this article. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns.

Section 16-22. Criminal and Civil Penalties, Injunctive Relief.

a. Criminal Penalty. Any person violating any provision of this article shall be deemed guilty of a misdemeanor and upon conviction shall be subject to punishment under the general penalty provisions of Section 1-8 of this Code of Ordinances: that is, shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent fees, penalties, and costs provided for herein.

b. Civil Penalty. For non-payment of all or any part of the business license fee, the License Official shall levy and collect a penalty of five (5%) percent of the unpaid fee for each month or portion thereof after the due date until paid. Penalties shall not be waived except in accordance with circumstances of reasonable cause set forth in Section 16-19 of this article as determined by the Business Service Center Appeals Board.

c. Injunctive Relief. The County may seek injunctive relief in a court of competent jurisdiction as a means of enforcing the provisions of this article.

Secs. 16-23--16-24. Reserved.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after \_\_\_\_\_.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Paul Livingston, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Michelle Onley  
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

First Reading:  
Second Reading:  
Public Hearing:  
Third Reading:

## Richland County Council Request for Action

**Subject:**

An Ordinance Amending the Richland County Code of Ordinances, so as to adopt the Richland County Land Development Code Rewrite; and to replace Chapter 26, Land Development

**Notes:**

First Reading: September 28, 2021

Second Reading: October 19, 2021 {Tentative}

Third Reading:

Public Hearing: September 28, 2021



STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. -21HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, SO AS TO ADOPT THE RICHLAND COUNTY LAND DEVELOPMENT CODE REWRITE; AND TO REPLACE CHAPTER 26, LAND DEVELOPMENT.

Pursuant to the authority by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances; Chapter 26, Land Development, is hereby amended by the deletion of the language contained therein and the substitution of the following:

**Exhibit “A” - Richland County Land Development Code Rewrite**

SECTION II. Interim Procedures.

- (a) *Notice.* Within ninety (90) days of the adoption of this ordinance, the county shall mail written notice to all real property owners of record in the unincorporated areas of the county, informing them that a new land development code has been adopted and that a map amendment ordinance will soon be adopted, both of which will become effective on May 2, 2022, and that the uses of their property could be affected by the adoption of these ordinances. In addition, the notice will provide contact information for those persons who desire additional information and/or have questions.
- (b) *Staff reports.* Upon adoption of this ordinance, the planning and development department staff shall begin to provide monthly written reports to county council on the progress of implementing the new land development code. The reports shall include, but not be limited to, the number of inquiries the department has received concerning the land development code. Monthly reports shall continue until the effective date of this ordinance.
- (d) *Compliance.* All standards and regulations of the new land development code, which is incorporated herein, must be complied with beginning on May 2, 2022, unless final plans have been approved or a building permit has been issued prior to said date.

SECTION III. A moratorium on requests for map amendments is hereby enacted, so that from and after October 1, 2021, no person shall be permitted to apply for any zoning district classification other than a district classification described and regulated in the Land Development Code Rewrite adopted on November 16, 2021 until May 2, 2022.

SECTION IV. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION V. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION VI. Effective Date. The provisions of Section II. (Interim Procedures) of this ordinance shall be effective from and after November 16, 2021. All other provisions of this ordinance shall be effective from and after May 2, 2022.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Paul Livingston, Chair

Attest this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Michelle M. Onley  
Interim Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

\_\_\_\_\_  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

Public Hearing: September 28, 2021  
First Reading: September 28, 2021  
Second Reading: October 19, 2021  
Third Reading: November 16, 2021

## Richland County Council Request for Action

**Subject:**

An Ordinance Amending the Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 2, Competitive Purchasing Policy; Section 2-612, Same--Purchase Negotiations; so as to change the requirements regarding residential Solid Waste Collection vendors

**Notes:**

First Reading: October 5, 2021

Second Reading: October 19, 2021 {Tentative}

Third Reading: November 9, 2021 {Tentative}

Public Hearing: November 9, 2021

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_-21HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION; ARTICLE X, PURCHASING; DIVISION 2, COMPETITIVE PURCHASING POLICY; SECTION 2-612, SAME---PURCHASE NEGOTIATIONS; SO AS TO CHANGE THE REQUIREMENTS REGARDING RESIDENTIAL SOLID WASTE COLLECTION VENDORS.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances, Chapter 2, Administration; Article X, Purchasing; Division 2, Competitive Purchasing Policy; Section, 2-612, Same---Purchase Negotiations; Subsection (c)(10); is hereby amended to read as follows:

(c) (10) (A) A contract for residential solid waste collection may be renewed or renegotiated regardless of any terms therein if the county council determines that renewal to promote continuity of service is in the best interest of the county. However, if the county council shall elect to solicit bids or proposals for service for any solid waste collection area, such procedure shall in all aspects comply with this article as to competitive procurement, with any responsive and responsible vendor being allowed the opportunity to offer a bid or proposal; ~~but in no event shall any contractor, subcontractor, franchised garbage collector, or other vendor be awarded a contract to service more than two (2) collection areas, regardless of whether such contracts be obtained through renewal, renegotiation, subcontracting, competitive purchasing procedures, or any other means.~~ Except as otherwise provided, a contractor, subcontractor, or other vendor may not be awarded a contract to service more than three (3) collection areas regardless of whether such contracts be obtained through renewal, renegotiation, subcontracting, competitive purchasing procedures, or any other means. Only an existing high performing collections contractor classified as such by the County Solid Waste Staff is eligible for a third collection area contract.

(B) As used in this subparagraph, the term:

(i) "High performing collections contractor" means an established Residential/Small Business Curbside Collections contractor who currently maintains a Service Report Card score of below 0.30 valid complains for each one hundred households for at least a six-month period.

(ii) "Non-valid complaint" means a service-related complaint received by County staff that was investigated and found to be inaccurate in fact regarding a Curbside Collection Contractor in the performance of the service for which they are engaged. These very often pertain to missed collection complaints where it was determined that roll carts were not placed at curbside in a timely manner.

(iii) "Service Report Card" means a monthly compilation of all service-related complaints received by County staff that were investigated regarding performance by a Curbside Collection Contractor regarding the performance of the service for which they are engaged.

(iv) "Valid complaint" means a service-related complaint received by County staff that was investigated and found to be accurate in fact regarding a Curbside Collection Contractor in the performance of the service for which they are engaged. Correction of the complaint before close of business on the designated collection day negates its occurrence.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be enforced from and after \_\_\_\_\_.

RICHLAND COUNTY COUNCIL

By: \_\_\_\_\_  
Paul Livingston, Chair

Attest this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Michelle Onley  
Deputy Clerk of Council

First Reading:  
Second Reading:  
Public Hearing:  
Third Reading:

DRAFT

## Richland County Council Request for Action

**Subject:**

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement, and amendment of that certain existing fee-in-lieu of ad valorem agreement, by and between Richland County, South Carolina and Project Tide; to provide for payments of fees-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

**Notes:**

First Reading: October 5, 2021

Second Reading: October 19, 2021 {Tentative}

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT, AND AMENDMENT OF THAT CERTAIN EXISTING FEE-IN-LIEU OF *AD VALOREM* AGREEMENT, BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND PROJECT TIDE; TO PROVIDE FOR PAYMENTS OF FEES-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.**

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976 (the “Code”), as amended (the “Simplification Act”), Title 4, Chapter 12 of the Code (the “Chapter 12 Act”) and Title 4, Chapter 29 of the Code (the “Chapter 29 Act”, and together with the Simplification Act and the Chapter 12 Act the “Acts”) to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Acts, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the Acts;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County, South Carolina more particularly known as the I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, the County is authorized and empowered under and pursuant to the provisions of the Simplification Act to enter into and amend certain agreements with any industry that constructs, operates, maintains, and improves certain properties (which constitute “projects” as defined in the Simplification Act);

WHEREAS, pursuant to the Acts and MCIP Act, the County is authorized to provide credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (“Infrastructure”);

WHEREAS, Project Tide (the “Sponsor”) owns and operates a manufacturing facility (the “Facility”) located in the County;

WHEREAS, the Sponsor desires to expand the Facility consisting of anticipated taxable investment in real and personal property of not less than \$46,000,000 and the creation of not less than 100 new full-time jobs (“Project”);

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement with the Sponsor, as sponsor, the substantially final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to

which the County will provide certain incentives to the Sponsor with respect to the Project, including (i) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; and (ii) providing Infrastructure Credits, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure;

WHEREAS, the County and Sponsor are parties to an existing Inducement and Millage Rate Agreement dated November 14, 2000 (the “Inducement Agreement”) and related Lease Agreement, dated December 15, 2000 (the “Lease Agreement”)(collectively, the “Existing FILOT Agreement”); and

WHEREAS, as an inducement to maintain investment at the Facility, the County and Sponsor desire to amend certain provisions of the Existing Fee Agreement in order to extend the term thereof (the “Existing FILOT Agreement Term Extension”) by entering into a First Amendment to Inducement and Millage Rate Agreement and Lease Agreement between the County and Sponsor, the substantially final form of which is attached as Exhibit B (“First Amendment to Inducement and Millage Rate Agreement and Lease Agreement”).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

**Section 1. Statutory Findings.** Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment and the anticipated costs and benefits to the County, and hereby finds:

(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 gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs;

(d) The Facility and the Project, including the Fee Agreement and First Amendment to Fee Agreement, will directly and substantially benefit the general public welfare of the County by providing the retention of jobs and employment; the increase of the ad valorem tax base; and other public benefits.

**Section 2. Approval of Incentives; Authorization to Execute and Fee Agreement.** The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County at such time as is requested by the Sponsor, but no later than December 31, 2025, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Sponsor.

**Section 3. Inclusion within the Park.** The expansion of the Park boundaries to include the Project, and the Facility to the extent any portion is not already included in the Park, is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such



documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), any necessary expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and delivery of written notice to Fairfield County of the inclusion of the Project in the Park.

**Section 4. *Approval of Existing FILOT Agreement Term Extension; Authorization to Execute and Deliver First Amendment to Inducement and Millage Rate Agreement and Lease Agreement.*** The Existing FILOT Agreement Term Extension as described in this Ordinance, and as more particularly set forth in the First Amendment to Inducement and Millage Rate and Lease Agreement with respect to the Facility, is hereby approved. The form, terms and provisions of the First Amendment to Inducement and Millage Rate and Lease Agreement that is before this meeting is approved and all of the terms and conditions of the First Amendment to Inducement and Millage Rate and Lease Agreement are incorporated in this Ordinance by reference. The Chair is authorized and directed to execute the First Amendment to Inducement and Millage Rate and Lease Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the First Amendment to Inducement and Millage Rate and Lease Agreement and to deliver the First Amendment to Inducement and Millage Rate and Lease Agreement to the Sponsor.

**Section 5. *Further Assurances.*** The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or the the Director of Economic Development, as appropriate, to take whatever further action and for the Chair, the County Administrator, and the Director of Economic Development to negotiate, execute and deliver whatever further documents, and for the Clerk to County Council to attest the same, as may be appropriate to effect this Ordinance and the incentives offered to the Sponsor under this Ordinance, the Fee Agreement, and First Amendment to Fee Agreement.

**Section 6. *Savings Clause.*** The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

**Section 7. *General Repealer.*** Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 8. *Effectiveness.*** This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

First Reading:      October 5, 2021  
Second Reading:   October 19, 2021  
Public Hearing:     \_\_\_\_\_, 2021  
Third Reading:     \_\_\_\_\_, 2021

**EXHIBIT B**

**FORM OF FIRST AMENDMENT TO FEE AGREEMENT**

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**FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT**

**BETWEEN**

**PROJECT TIDE**

**AND**

**RICHLAND COUNTY, SOUTH CAROLINA**

**EFFECTIVE AS OF DECEMBER 31, 2021**

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SUMMARY OF CONTENTS OF

## FEE AGREEMENT

The parties have agreed to waive the requirement to recapitulate the contents of this Fee Agreement pursuant to Section 12-44-55 of the Code (as defined herein). However, the parties have agreed to include a summary of the key provisions of this Fee Agreement for the convenience of the parties. This summary is included for convenience only and is not to be construed as a part of the terms and conditions of this Fee Agreement.

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
<b>Sponsor Name</b>	Project Tide	
<b>Project Location</b>		
<b>Tax Map No.</b>		
<b>FILOT</b>		
<ul style="list-style-type: none"> <li>• Phase Exemption Period</li> </ul>	30 years	
<ul style="list-style-type: none"> <li>• Contract Minimum Investment Requirement</li> </ul>	\$40,000,000	
<ul style="list-style-type: none"> <li>• Contract Minimum Jobs Requirement</li> </ul>	100	
<ul style="list-style-type: none"> <li>• Investment Period</li> </ul>	5 years	
<ul style="list-style-type: none"> <li>• Assessment Ratio</li> </ul>	6%	
<ul style="list-style-type: none"> <li>• Millage Rate</li> </ul>	0.4753	
<ul style="list-style-type: none"> <li>• Fixed or Five-Year Adjustable Millage</li> </ul>	Fixed	
<ul style="list-style-type: none"> <li>• Claw Back Information</li> </ul>	N/A	
<b>Multicounty Park</b>	With Fairfield County	
<b>Infrastructure Credit</b>		
<ul style="list-style-type: none"> <li>• Brief Description</li> </ul>	23%	
<ul style="list-style-type: none"> <li>• Credit Term</li> </ul>	10 years	
<ul style="list-style-type: none"> <li>• Claw Back Information</li> </ul>	Percentage clawback of SSRC based on actual investment and job creation, compared with contract minimum investment and jobs, within 5-year investment period	
<b>Other Information</b>		

## FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of December 31, 2021, between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and PROJECT TIDE, a limited liability company organized and existing under the laws of the State of South Carolina (“*Sponsor*”).

### WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“*FILOT*”) with respect to Economic Development Property, as defined below;

(b) Sections 4-1-175 and 12-44-70 of the Code authorize the County to provide credits (“*Infrastructure Credit*”) against payments in lieu of taxes for the purpose of defraying of the cost of designing, acquiring, constructing, improving, or expanding (i) the infrastructure serving the County or a project and (ii) for improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise (collectively, “*Infrastructure*”);

(c) The Sponsor has committed to expand a manufacturing facility (“*Facility*”) in the County, consisting of anticipated taxable investment in real and personal property of \$46,000,000 and the creation of 100 new, full-time jobs;

(d) By an ordinance enacted on [October 5, 2021], County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor to expand its Facility in the County.

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

### ARTICLE I DEFINITIONS

**Section 1.1. Terms.** The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

“*Act*” means Title 12, Chapter 44 of the Code, and all future acts successor or supplemental thereto or amendatory of this Fee Agreement.

“*Act Minimum Investment Requirement*” means an investment of at least \$2,500,000 in the Project within five years of the Commencement Date.

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees of \$5,000. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the



FILOT Payments, Infrastructure Credits or other incentives provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

“**Code**” means the Code of Laws of South Carolina, 1976, as amended.

“**Commencement Date**” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2021.

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$40,000,000.

“**Contract Minimum Jobs Requirement**” means not less than 100 full-time, jobs created by the Sponsor in the County in connection with the Project.

“**County**” means Richland 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 Council**” means the Richland County Council, the governing body of the County.

“**Credit Term**” means the years during the Fee Term in which the Infrastructure Credit is applicable, as described in Exhibit C.

“**Department**” means the South Carolina Department of Revenue.

“**Diminution in Value**” means a reduction in the fair market value of Economic Development Property, as determined in Section 4.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 4.3 of this Fee Agreement; (ii) a casualty as described in Section 4.4 of this Fee Agreement; or (iii) a condemnation as described in Section 4.5 of this Fee Agreement.

“**Economic Development Property**” means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

“**Equipment**” means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions.

“**Event of Default**” means any event of default specified in Section 7.1 of this Fee Agreement.

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes [and Incentive] Agreement.

“**Fee Term**” means the period from the effective date of this Fee Agreement until the Final Termination Date.

“**FILOT Payments**” means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.1.

“**Final Phase**” means the Economic Development Property placed in service during the last year of the Investment Period.

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31 2056, the Final Termination Date is expected to be January 15, 2057, which is the due date of the last FILOT Payment with respect to the Final Phase.

“**Improvements**” means all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

“**Infrastructure**” means (i) the infrastructure serving the County or the Project, (ii) improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise, or (iii) such other items as may be described in or permitted under Section 4-29-68 of the Code.

“**Infrastructure Credit**” means the credit provided to the Sponsor pursuant to Section 12-44-70 of the Act[or Section 4-1-175 of the MCIP Act] and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Infrastructure Credits are to be used for the payment of Infrastructure constituting real property, improvements and infrastructure before any use for the payment of Infrastructure constituting personal property, notwithstanding any presumptions to the contrary in the MCIP Act or otherwise.

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on [DATE].

“**MCIP Act**” means Article VIII, Section 13(D) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, 4-1-175, and 4-29-68 of the Code.

“**Multicounty Park**” means the multicounty industrial or business park governed by the Amended and Restated Agreement Governing the I-77 Corridor Regional Industrial Park, dated as of September 1, 2018, between the County and Fairfield County, South Carolina, as may be amended.

“**Net FILOT Payment**” means the FILOT Payment net of the Infrastructure Credit.

“**Phase**” means the Economic Development Property placed in service during a particular year of the Investment Period.

“**Phase Exemption Period**” means, with respect to each Phase, the period beginning with the property tax year the Phase is placed in service during the Investment Period and ending on the Phase Termination Date.

“**Phase Termination Date**” means, with respect to each Phase, the last day of the property tax year which is the 29<sup>th</sup> year following the first property tax year in which the Phase is placed in service.

“**Project**” means all the Equipment, Improvements, and Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County.

“**Real Property**” means real property that the Sponsor uses or will use in the County for the purposes that Section 2.2(b) describes, and initially consists of the land identified on Exhibit A of this Fee Agreement.

“**Removed Components**” means Economic Development Property which the Sponsor, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 4.4(c) or Section 4.5(b)(iii) of this Fee Agreement.

“**Replacement Property**” means any property which is placed in service as a replacement for any Removed Component regardless of whether the Replacement Property serves the same functions as the Removed Component it is replacing and regardless of whether more than one piece of Replacement Property replaces a single Removed Component.

“**Sponsor**” means PROJECT TIDE and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“**Sponsor Affiliate**” means an entity that participates in the investment [or job creation] at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

“**State**” means the State of South Carolina.

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.

The term “investment” or “invest” as used in this Fee Agreement includes not only investments made by the Sponsor, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsor in connection with the Project through federal, state, or local grants, to the extent such investments are or, but for the terms of this Fee Agreement, would be subject to *ad valorem* taxes to be paid by the Sponsor.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

**Section 2.1. Representations and Warranties of the County.** The County represents and warrants 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 Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

(b) Based on representations by the Sponsor, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and following the evaluation, the County determined that (i) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County's general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a "project" on [October 5, 2021] by adopting an Inducement Resolution, as defined in the Act on [October 5, 2021].

(d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Fee Agreement.

(e) The County has located or will take all reasonable action to locate the Project in the Multicounty Park.

**Section 2.2. Representations and Warranties of the Sponsor.** The Sponsor represents and warrants as follows:

(a) The Sponsor is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing 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 Sponsor intends to operate the Project as a manufacturing facility and for such other purposes that the Act permits as the Sponsor may deem appropriate.

(c) The Sponsor's execution and delivery of this Fee Agreement and its compliance with the provisions of this Fee Agreement do not result in a default under any agreement or instrument to which the Sponsor is now a party or by which it is bound.

(d) The Sponsor will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT and other incentives provided by this Fee Agreement has been instrumental in inducing the Sponsor to locate the Project in the County.

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

### **ARTICLE III THE PROJECT**

**Section 3.1. The Project.** The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs

Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2021. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

**Section 3.2 Leased Property.** To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

**Section 3.3. Filings and Reports.**

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing January 31, 2022, the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

(b) The Sponsor shall file a copy of this Fee Agreement and a completed PT-443 with the Economic Development Director and the Department and the Auditor, Treasurer and Assessor of the County and partner county to the Multicounty Park.

(c) On request by the County Administrator or the Economic Development Director, the Sponsor shall remit to the Economic Development Director records accounting for the acquisition, financing, construction, and operation of the Project which records (i) permit ready identification of all Economic Development Property; (ii) confirm the dates that the Economic Development Property or Phase was placed in service; and (iii) include copies of all filings made in accordance with this Section.

**ARTICLE IV  
FILOT PAYMENTS**

**Section 4.1. FILOT Payments.**

(a) The FILOT Payment due with respect to each Phase through the Phase Termination Date is calculated as follows:

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to [use the fair market value established in the first year of the Phase Exemption Period]/[determine the Real Property's fair market value by appraisal as if the Real Property were not subject to this Fee Agreement, except that such appraisal may not occur more than once every five years]), multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate equal to 0.4753 , which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2021.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

(b) If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsor with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7.

**Section 4.2. FILOT Payments on Replacement Property.** If the Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

(a) FILOT Payments, calculated in accordance with Section 4.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

**Section 4.3. Removal of Components of the Project.** Subject to the other terms and provisions of this Fee Agreement, the Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

**Section 4.4. Damage or Destruction of Economic Development Property.**

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

(b) *Election to Restore and Replace.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements

made pursuant to this subsection (b) are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.

(c) *Election to Remove.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

#### **Section 4.5. Condemnation.**

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Economic Development Property or a transfer in lieu, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to restore and replace the Economic Development Property, with such restorations and replacements deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor is obligated to make FILOT Payments with respect to the Economic Development Property so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

**Section 4.6. Calculating FILOT Payments on Diminution in Value.** If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in Section 4.1(a)(i) of this Fee Agreement.

**Section 4.7. Payment of Ad Valorem Taxes.** If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property in a particular property tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

**Section 4.8. Place of FILOT Payments.** All FILOT Payments shall be made directly to the County in accordance with applicable law.

**ARTICLE V  
ADDITIONAL INCENTIVES**

**Section 5.1. *Infrastructure Credits.*** To assist in paying for costs of Infrastructure, the Sponsor is entitled to claim an Infrastructure Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and calculation of the Infrastructure Credit is described in Exhibit D. In no event may the Sponsor's aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

For each property tax year in which the Infrastructure Credit is applicable ("***Credit Term***"), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit D. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

**ARTICLE VI  
CLAW BACK**

**Section 6.1. *Claw Back.*** If the Sponsor fails to perform its obligations under this Fee Agreement as described in Exhibit E, then the Sponsor is subject to the claw backs as described in Exhibit E. Any amount that may be due from the Sponsor to the County as calculated in accordance with or described in Exhibit E is due within 30 days of receipt of a written statement from the County. If not timely paid, the amount due from the Sponsor to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section and Exhibit E survives termination of this Fee Agreement.

**ARTICLE VII  
DEFAULT**

**Section 7.1. *Events of Default.*** The following are "Events of Default" under this Fee Agreement:

(a) Failure to make FILOT Payments, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in FILOT Payments and requesting that it be remedied;

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a "***Cessation of Operations***" means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

(d) A representation or warranty made by the Sponsor which is deemed materially incorrect when deemed made;

(e) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;



(f) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(g) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Sponsor to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

### **Section 7.2. Remedies on Default.**

(a) If an Event of Default by the Sponsor has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Sponsor may take any one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; 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 7.3. Reimbursement of Legal Fees and Other Expenses.** On the occurrence of an Event of Default, if a party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Fee Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

**Section 7.4. Remedies Not Exclusive.** No remedy described in this Fee Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Fee Agreement or existing at law or in equity or by statute.

## **ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS**

**Section 8.1. Right to Inspect.** The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

**Section 8.2. Confidentiality.** The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“*Confidential*

*Information*”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee Agreement as “**Confidential Information.**” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Sponsor acknowledges 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. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Sponsor with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure, and to cooperate reasonably with any attempts by the Sponsor to obtain judicial or other relief from such disclosure requirement.

### **Section 8.3. Indemnification Covenants.**

(a) Except as provided in paragraph (d) below, the Sponsor shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “**Indemnified Party**”) harmless against and from all liability or claims arising from the County’s execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a), above. The County shall provide a statement of the costs incurred in the response or defense, and the Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Sponsor to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. The Sponsor is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything in this Section or this Fee Agreement to the contrary, the Sponsor is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; or (ii) resulting from that Indemnified Party’s own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

**Section 8.4. No Liability of County Personnel.** All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement are binding on members 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 for the payment of any moneys under this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

**Section 8.5. *Limitation of Liability.*** The County is not liable to the Sponsor for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsor under this Fee Agreement. Notwithstanding anything in this Fee Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

**Section 8.6. *Assignment.*** The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

**Section 8.7. *No Double Payment; Future Changes in Legislation.*** Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. The Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

**Section 8.8. *Administration Expenses.*** The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$5,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

## ARTICLE IX SPONSOR AFFILIATES

**Section 9.1. *Sponsor Affiliates.*** The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor Affiliate to the County.

**Section 9.2. Primary Responsibility.** Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, “primary responsibility” means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

**ARTICLE X  
MISCELLANEOUS**

**Section 10.1. Notices.** Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is 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 of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

**IF TO THE SPONSOR:**

**WITH A COPY TO (does not constitute notice):**

Burr & Forman LLP  
Attn: Erik P. Doerring  
1221 Main Street, Suite 1800  
Columbia, South Carolina 29201

**IF TO THE COUNTY:**

Richland County, South Carolina  
Attn: Richland County Economic Development Director  
2020 Hampton Street  
Columbia, South Carolina 29204

**WITH A COPY TO (does not constitute notice):**

Parker Poe Adams & Bernstein LLP  
Attn: Ray E. Jones  
1221 Main Street, Suite 1100 (29201)  
Post Office Box 1509  
Columbia, South Carolina 29202-1509

**Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsor.** Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim under or by reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

**Section 10.3. Counterparts.** This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

**Section 10.4. Governing Law.** South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

**Section 10.5. Headings.** The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

**Section 10.6. Amendments.** This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

**Section 10.7. Agreement to Sign Other Documents.** From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

**Section 10.8. Interpretation; Invalidity; Change in Laws.**

(a) If the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, then the parties intend that the interpretation of this Fee Agreement be done 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 Act, to the extent not inconsistent with any of the explicit terms of this Fee Agreement.

(b) If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Fee Agreement are unimpaired, and the parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Fee Agreement so as to afford the Sponsor with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsor the strongest inducement possible, within the provisions of the Act, to locate the Project in the County.

(c) The County agrees that in case the FILOT incentive described in this Fee Agreement is found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue or Infrastructure Credit to the Sponsor [(in addition to the Infrastructure Credit explicitly provided for above)] to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

**Section 10.9. Force Majeure.** The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

**Section 10.10. Termination; Termination by Sponsor.**

(a) Unless first terminated under any other provision of this Fee Agreement, this Fee Agreement terminates on the Final Termination Date.

(b) The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project on providing the County with 30 days' notice.

(c) Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, survive such termination.

(d) In the year following termination, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement terminates to the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

**Section 10.11. *Entire Agreement.*** This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

**Section 10.12. *Waiver.*** Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

**Section 10.13. *Business Day.*** If any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Fee Agreement, and no interest will accrue in the interim.

**Section 10.14. *Agreement's Construction.*** Each party and its counsel have reviewed this Fee Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Fee Agreement or any amendments or exhibits to this Fee Agreement.

*[Signature pages follow]*

**IN WITNESS WHEREOF**, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk of the County Council; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
County Council Chair  
Richland County, South Carolina

**ATTEST:**

By: \_\_\_\_\_  
Clerk to County Council  
Richland County, South Carolina

*[Signature Page 1 to Fee in Lieu of Ad Valorem Taxes and Incentive Agreement]*

**PROJECT TITLE**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

*[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes and Incentive Agreement]*



**EXHIBIT A  
PROPERTY DESCRIPTION**

**ALL REAL AND TANGIBLE PERSONAL PROPERTY ASSOCIATED WITH THE PROJECT**

**EXHIBIT B (see Section 9.1)**  
**FORM OF JOINDER AGREEMENT**

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Richland County, South Carolina (“County”) and [COMPANY] (“Sponsor”).

**1. Joinder to Fee Agreement.**

[\_\_\_\_\_], a [STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, 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 as if it were a Sponsor [except the following: \_\_\_\_\_]; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor [except the following \_\_\_\_\_]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

**2. Capitalized Terms.**

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

**3. Representations of the Sponsor Affiliate.**

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Sponsor in the Project in the County.

**4. Governing Law.**

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

**5. Notice.**

Notices under Section 10.1 of the Fee Agreement shall be sent to:

[\_\_\_\_\_]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**RICHLAND COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT C (see Section 3.3)**  
**RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING**  
**ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY**

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,  
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY  
PRACTICES CONCERNING ECONOMIC DEVELOPMENT  
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

**Section 1.** The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

**Section 2.** The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

**Section 3.** A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office  
Attention: Kim Mann  
1201 Main Street, Suite 910  
Columbia, SC 29201

**Section 4.** This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

**Section 5.** The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


**Section 6.** In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA

  
Chair, Richland County Council

(SEAL)  
ATTEST:

  
Clerk to County Council

**EXHIBIT D (see Section 5.1)**  
**DESCRIPTION OF INFRASTRUCTURE CREDIT**

**23% OF THE FILOT PAYMENTS FOR EACH OF THE FIRST TEN (10) PROPERTY TAX YEARS OF THE FEE  
TERM**

**EXHIBIT E (see Section 6.1)**  
**DESCRIPTION OF CLAW BACK**

**Repayment Amount = Total Received x Claw Back Percentage**

**Claw Back Percentage = 100% - Overall Achievement Percentage**

**Overall Achievement Percentage = (Investment Achievement Percentage + Jobs Achievement Percentage) / 2**

**Investment Achievement Percentage = Actual Investment Achieved / Contract Minimum Investment Requirement [may not exceed 100%]**

**Jobs Achievement Percentage = Actual New, Full-Time Jobs Created / Contract Minimum Jobs Requirement [may not exceed 100%]**

In calculating the each achievement percentage, only the investment made or new jobs achieved up to the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement will be counted.

*For example, and by way of example only, if the County granted \$1,000,000 in Infrastructure Credits, and \$30,000,000 had been invested at the Project and 75 jobs had been created by the end of the Investment Period, the Repayment Amount would be calculated as follows:*

*Jobs Achievement Percentage = 75/[Contract Minimum Jobs Requirement] = 75%*

*Investment Achievement Percentage = \$30,000,000/[\$[Contract Minimum Investment Requirement]] = 75%*

*Overall Achievement Percentage = (75% + 75%)/2 = 75%*

*Claw Back Percentage = 100% - 75% = 25%*

*Repayment Amount = \$1,000,000 x 25% = \$250,000]*

The Sponsor shall pay any amounts described in or calculated pursuant to this Exhibit E within 30 days of receipt of a written statement from the County. If not timely paid by the Sponsor, the amount due is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation described in this Exhibit E survives termination of this Fee Agreement.



**EXHIBIT A**  
**FORM OF FEE AGREEMENT**

FIRST AMENDMENT TO INDUCEMENT AND MILLAGE RATE AGREEMENT  
AND LEASE AGREEMENT

THIS FIRST AMENDMENT TO INDUCEMENT AND MILLAGE RATE AGREEMENT AND LEASE AGREEMENT (this “Amendment”), dated as of \_\_\_\_\_, 2021, is made and entered into by and between RICHLAND COUNTY, SOUTH CAROLINA, a public body corporate and a political subdivision of the State of South Carolina (the “County”), and PROJECT TIDE, a limit liability company organized and existing under the laws of the State of South Carolina (the “Company”). All capitalized terms used herein without definition shall have the same meanings herein as such terms are defined in the Fee Agreement (hereinafter defined).

RECITALS

WHEREAS, the County and the Company entered into an Inducement and Millage Rate Agreement dated November 14, 2000 (the “Inducement Agreement”);

WHEREAS, the County and the Company entered into a related Lease Agreement, dated December 15, 2000 (the “Lease Agreement”); and

WHEREAS, the County and the Company desire to amend certain provisions of the Inducement Agreement and Lease Agreement to extend the terms thereof.

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I  
AMENDMENTS

Section 1.1. Section 4.02 of the Inducement Agreement is deleted and replaced with the following:

“SECTION 4.02

(a) The County agrees that from and after the date that any part of the Project is placed in service and titled in the County:

(i) the fee on such part shall be calculated on the basis of an assessment ratio of 6%;

(ii) the fee on such part shall be payable in 20 annual installments on the due date which would otherwise be applicable for ad valorem property taxes for each part of the Project, with the first such installment for each such part of the Project being due on the date when, but for this Agreement, taxes would have been paid with respect to such part of the Project; and

(iii) the fee on such part shall be calculated on the basis of the millage rate provided in Section 4.04 of this Agreement.

(b) The County also agrees as follows:

(i) any property included in the Project, title to which is transferred to the County, will be subject, before being placed in service, to an annual fee payment as provided in Section 4-12-20 of the FILOT Act;

(ii) any undeveloped land included in the Project (except such land which is not subject to property taxes, or any other payment of a fee-in-lieu of taxes in connection with a lease agreement or other arrangement with the County or other or similar governmental entity), title to which is transferred to the County, will be subject, before being placed in service, to an annual fee payment as provided in Section 4-12-20 of the FILOT Act; and

(iii) payments under the foregoing clauses (i) and (ii) shall not be considered part of the maximum periods contemplated under Section 4-12-30(C) of the FILOT Act.”

Section 1.2. Section 4.03 of the Lease Agreement is deleted and replaced with the following:

“SECTION 4.03 Lease Term. The County agrees to deliver to the Company sole and exclusive possession of each item of the Facilities on the same date that title to each such item vests in the County pursuant to Section 3.4, and to grant the Company such sole and exclusive possession of each such item for the term beginning on such vesting date and continuing until the end of the 20 years after the 31st day of December in the year of such vesting date; provided that the maximum term hereof shall not be later than December 31, 2027. The Company shall have sole and exclusive possession of the Facilities during the term hereof. This Agreement shall terminate with respect to the Facilities or any part thereof upon the earliest to occur of (a) payment of the final installment of Payments in Lieu-of-Taxes pursuant to Section 4.5(b) hereof, or (b) exercise by the Company of its option to purchase and terminate pursuant to Section 11.1 hereof.”

Section 1.3. Section 4.05(c)(iii) of the Lease Agreement is deleted and replaced with the following:

“(iii) Any property placed in service as part of the Project during the Project Acquisition Period shall be included in the calculation of payments pursuant to paragraphs (c)(i) and (ii) above for a period not exceeding 20 years following the year in which such property was placed in service. Replacement Property shall be included (using its income tax basis) in the calculation of payments pursuant to paragraphs (c)(i) and (ii) above, but only up to the original income tax basis of property which is being disposed of in the same property tax year. Replacement Property is deemed to replace the oldest property subject to the fee which is disposed of in the same property tax year that the Replacement Property is placed in service. More than one piece of property can replace a single piece of property. Replacement Property does not have to serve the same function as the property it is replacing. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the property which it is replacing, the excess amount shall represent a Non-Filot Asset and be subject to payments as provided in subsection (a) above. Replacement Property is entitled to the fee payment pursuant to this paragraph (c) for the period of time remaining on the 20-year fee period for the property which it is replacing.”

Section 1.4. The Inducement Agreement and Lease Agreement are otherwise amended throughout to reflect a term of 30 years for each year of the investment period during which property is placed in service for South Carolina property tax purposes.

ARTICLE II  
MISCELLANEOUS

Section 2.1. This Amendment shall be effective from the date first above written.

Section 2.2. Except as specifically amended hereby, the Inducement Agreement and Lease Agreement shall continue in full force and effect in accordance with its terms.

Section 2.3. This Amendment shall be governed by South Carolina law.

This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
County Council Chair  
Richland County, South Carolina

**ATTEST:**

By: \_\_\_\_\_  
Clerk to County Council  
Richland County, South Carolina

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

[Signature Page of the County]

[Signature Page of the Company Follows]

PROJECT TIDE

[SEAL]

ATTEST:

By: \_\_\_\_\_

\_\_\_\_\_

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_

[Signature Page of the Company]

## Richland County Council Request for Action

**Subject:**

An Ordinance authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and Project Remedy to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

**Notes:**

First Reading: October 5, 2021

Second Reading: October 19, 2021 {Tentative}

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR RICHLAND COUNTY  
ORDINANCE NO. \_\_\_\_\_

**AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND PROJECT REMEDY TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.**

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the FILOT Act;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County, South Carolina more particularly known as I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, pursuant to the FILOT and MCIP Acts, the County is authorized to provide credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (“Infrastructure”);

WHEREAS, Project Remedy, (“Sponsor”), desires to expand its manufacturing facility in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$3,685,000 and the creation of 17 new, full-time jobs; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement with the Sponsor, as sponsor, the final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (i) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; and (2) confirm the location of the Project in the Park; and (3) providing Infrastructure Credits and other incentives, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure.

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

**Section 1. Statutory Findings.** Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created, and the anticipated costs and benefits to the County, and hereby finds:



(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 gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs.

**Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.*** The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Sponsor.

**Section 3. *Inclusion within the Park.*** The expansion of the Park boundaries to include the Project is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), the expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and delivery of written notice to Fairfield County of the inclusion of the Project in the Park.

**Section 4. *Further Assurances.*** The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or the Director of Economic Development, as appropriate, to take whatever further action and for the Chair, the County Administrator, and the Director of Economic Development to negotiate, execute and deliver whatever further documents, and for the Clerk to County Council to attest the same, as may be appropriate to effect this Ordinance and the incentives offered to the Sponsor under this Ordinance and the Fee Agreement.

**Section 5. *Savings Clause.*** The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

**Section 6. *General Repealer.*** Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 7. *Effectiveness.*** This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

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Chair, Richland County Council

(SEAL)  
ATTEST:

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Clerk of Council, Richland County Council

First Reading:      October 5, 2021  
Second Reading:    October 19, 2021  
Public Hearing:  
Third Reading:

**EXHIBIT A**  
**FORM OF FEE AGREEMENT**

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**FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT**

**BETWEEN**

**PROJECT REMEDY**

**AND**

**RICHLAND COUNTY, SOUTH CAROLINA**

**EFFECTIVE AS OF [\_\_\_\_], 2021**

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**SUMMARY OF CONTENTS OF  
FEE AGREEMENT**

The parties have agreed to waive the requirement to recapitulate the contents of this Fee Agreement pursuant to Section 12-44-55 of the Code (as defined herein). However, the parties have agreed to include a summary of the key provisions of this Fee Agreement for the convenience of the parties. This summary is included for convenience only and is not to be construed as a part of the terms and conditions of this Fee Agreement.

<b>PROVISION</b>	<b>BRIEF DESCRIPTION</b>	<b>SECTION REFERENCE</b>
<b>Sponsor Name</b>	<b>Project Remedy</b>	<b>Section 1.1</b>
<b>Project Location</b>		<b>Exhibit A</b>
<b>Tax Map No.</b>		<b>Exhibit A</b>
<b>FILOT</b>		
<ul style="list-style-type: none"> <li>• Phase Exemption Period</li> </ul>	30 years	Section 1.1
<ul style="list-style-type: none"> <li>• Contract Minimum Investment Requirement</li> </ul>	3,685,000	Section 1.1
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<ul style="list-style-type: none"> <li>• Assessment Ratio</li> </ul>	6%	Section 4.1(a)
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<ul style="list-style-type: none"> <li>• Claw Back Information</li> </ul>	Failure to reach the Contract Minimum Jobs Requirement or Contract Minimum Investment Requirement shall result in a pro-rata claw back on the Infrastructure Credit, calculated as provided herein.	Section 6.1; Exhibit E
<b>Multicounty Park</b>	I-77 Corridor Regional Industrial Park (Fairfield County is the partner county)	Section 1.1
<b>Infrastructure Credit</b>		
<ul style="list-style-type: none"> <li>• Brief Description</li> </ul>	40% years 1-10	Section 5.1; Exhibit D
<ul style="list-style-type: none"> <li>• Credit Term</li> </ul>	10 years	Section 5.1; Exhibit D
<ul style="list-style-type: none"> <li>• Claw Back Information</li> </ul>	See above	
<b>Other Information</b>		

## FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of [\_\_\_\_], 2021, between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and Project Remedy, a [limited liability company] organized and existing under the laws of the State of [South Carolina] (“*Sponsor*”).

### WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“*FILOT*”) with respect to Economic Development Property, as defined below;

(b) Sections 4-1-175 and 12-44-70 of the Code authorize the County to provide credits (“*Infrastructure Credit*”) against payments in lieu of taxes for the purpose of defraying of the cost of designing, acquiring, constructing, improving, or expanding (i) the infrastructure serving the County or a project and (ii) for improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise (collectively, “*Infrastructure*”);

(c) The Sponsor has committed to expand its manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$3,685,000 and the creation of 17 new, full-time jobs;

(d) By an ordinance enacted on [October 5, 2021], County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor to expand its Facility in the County.

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

### ARTICLE I DEFINITIONS

**Section 1.1. Terms.** The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

“*Act*” means Title 12, Chapter 44 of the Code, and all future acts successor or supplemental thereto or amendatory of this Fee Agreement.

“*Act Minimum Investment Requirement*” means an investment of at least \$2,500,000 in the Project within five years of the Commencement Date.

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT



Payments, Infrastructure Credits or other incentives provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

“**Code**” means the Code of Laws of South Carolina, 1976, as amended.

“**Commencement Date**” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2021.

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$3,685,000.

“**Contract Minimum Jobs Requirement**” means not less than 17 full-time, jobs created by the Sponsor in the County in connection with the Project.

“**County**” means Richland 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 Council**” means the Richland County Council, the governing body of the County.

“**Credit Term**” means the years during the Fee Term in which the Infrastructure Credit is applicable, as described in Exhibit C.

“**Department**” means the South Carolina Department of Revenue.

“**Diminution in Value**” means a reduction in the fair market value of Economic Development Property, as determined in Section 4.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 4.3 of this Fee Agreement; (ii) a casualty as described in Section 4.4 of this Fee Agreement; or (iii) a condemnation as described in Section 4.5 of this Fee Agreement.

“**Economic Development Property**” means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by the Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

“**Equipment**” means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions.

“**Event of Default**” means any event of default specified in Section 7.1 of this Fee Agreement.

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes and Incentive Agreement.

“**Fee Term**” means the period from the effective date of this Fee Agreement until the Final Termination Date.

“**FILOT Payments**” means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.1.

“**Final Phase**” means the Economic Development Property placed in service during the last year of the Investment Period.

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2055, the Final Termination Date is expected to be January 15, 2057, which is the due date of the last FILOT Payment with respect to the Final Phase.

“**Improvements**” means all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

“**Infrastructure**” means (i) the infrastructure serving the County or the Project, (ii) improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise, or (iii) such other items as may be described in or permitted under Section 4-29-68 of the Code.

“**Infrastructure Credit**” means the credit provided to the Sponsor pursuant to Section 12-44-70 of the Act or Section 4-1-175 of the MCIP Act and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Infrastructure Credits are to be used for the payment of Infrastructure constituting real property, improvements and infrastructure before any use for the payment of Infrastructure constituting personal property, notwithstanding any presumptions to the contrary in the MCIP Act or otherwise.

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2026.

“**MCIP Act**” means Article VIII, Section 13(D) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, 4-1-175, and 4-29-68 of the Code.

“**Multicounty Park**” means the multicounty industrial or business park governed by the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County, South Carolina and governed by the “Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park”, dated as of September 1, 2018, as may be amended.

“**Net FILOT Payment**” means the FILOT Payment net of the Infrastructure Credit.

“**Phase**” means the Economic Development Property placed in service during a particular year of the Investment Period.

“**Phase Exemption Period**” means, with respect to each Phase, the period beginning with the property tax year the Phase is placed in service during the Investment Period and ending on the Phase Termination Date.

“**Phase Termination Date**” means, with respect to each Phase, the last day of the property tax year which is the 29<sup>th</sup> year following the first property tax year in which the Phase is placed in service.

“**Project**” means all the Equipment, Improvements, and Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County.

“**Real Property**” means real property that the Sponsor uses or will use in the County for the purposes that Section 2.2(b) describes, and initially consists of the land identified on Exhibit A of this Fee Agreement.

“**Removed Components**” means Economic Development Property which the Sponsor, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 4.4(c) or Section 4.5(b)(iii) of this Fee Agreement.

“**Replacement Property**” means any property which is placed in service as a replacement for any Removed Component regardless of whether the Replacement Property serves the same functions as the Removed Component it is replacing and regardless of whether more than one piece of Replacement Property replaces a single Removed Component.

“**Sponsor**” means Project Remedy and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“**Sponsor Affiliate**” means an entity that participates in the investment or job creation at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

“**State**” means the State of South Carolina.

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.

The term “investment” or “invest” as used in this Fee Agreement includes not only investments made by the Sponsor, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsor in connection with the Project through federal, state, or local grants, to the extent such investments are or, but for the terms of this Fee Agreement, would be subject to *ad valorem* taxes to be paid by the Sponsor.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

**Section 2.1. Representations and Warranties of the County.** The County represents and warrants 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 Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

(b) Based on representations by the Sponsor, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and following the evaluation, the County determined that (i) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County's general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a "project" on [October 5, 2021] by adopting an Inducement Resolution, as defined in the Act on [October 5, 2021].

(d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Fee Agreement.

(e) The County has located or will take all reasonable action to locate the Project in the Multicounty Park.

**Section 2.2. Representations and Warranties of the Sponsor.** The Sponsor represents and warrants as follows:

(a) The Sponsor is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing 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 Sponsor intends to operate the Project as a manufacturing facility and for such other purposes that the Act permits as the Sponsor may deem appropriate.

(c) The Sponsor's execution and delivery of this Fee Agreement and its compliance with the provisions of this Fee Agreement do not result in a default under any agreement or instrument to which the Sponsor is now a party or by which it is bound.

(d) The Sponsor will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT and other incentives provided by this Fee Agreement has been instrumental in inducing the Sponsor to locate the Project in the County.

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

### **ARTICLE III THE PROJECT**

**Section 3.1. *The Project.*** The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2021. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

**Section 3.2 *Leased Property.*** To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

**Section 3.3. *Filings and Reports.***

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing in 2022, the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated [December 17, 2017], which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

(b) The Sponsor shall file a copy of this Fee Agreement and a completed PT-443 with the Economic Development Director and the Department and the Auditor, Treasurer and Assessor of the County and partner county to the Multicounty Park.

(c) On request by the County Administrator or the Economic Development Director, the Sponsor shall remit to the Economic Development Director records accounting for the acquisition, financing, construction, and operation of the Project which records (i) permit ready identification of all Economic Development Property; (ii) confirm the dates that the Economic Development Property or Phase was placed in service; and (iii) include copies of all filings made in accordance with this Section.

**ARTICLE IV  
FILOT PAYMENTS**

**Section 4.1. *FILOT Payments.***

(a) The FILOT Payment due with respect to each Phase through the Phase Termination Date is calculated as follows:

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate equal to 475.3, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2021.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

(b) If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsor with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7.

**Section 4.2. FILOT Payments on Replacement Property.** If the Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

(a) FILOT Payments, calculated in accordance with Section 4.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

**Section 4.3. Removal of Components of the Project.** Subject to the other terms and provisions of this Fee Agreement, the Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

**Section 4.4. Damage or Destruction of Economic Development Property.**

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

(b) *Election to Restore and Replace.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements

made pursuant to this subsection (b) are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.

(c) *Election to Remove.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

#### **Section 4.5. Condemnation.**

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Economic Development Property or a transfer in lieu, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to restore and replace the Economic Development Property, with such restorations and replacements deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor is obligated to make FILOT Payments with respect to the Economic Development Property so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

**Section 4.6. Calculating FILOT Payments on Diminution in Value.** If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in Section 4.1(a)(i) of this Fee Agreement.

**Section 4.7. Payment of Ad Valorem Taxes.** If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property in a particular property tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

**Section 4.8. Place of FILOT Payments.** All FILOT Payments shall be made directly to the County in accordance with applicable law.

**ARTICLE V  
ADDITIONAL INCENTIVES**

**Section 5.1. Infrastructure Credits.** To assist in paying for costs of Infrastructure, the Sponsor is entitled to claim an Infrastructure Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and calculation of the Infrastructure Credit is described in Exhibit D. In no event may the Sponsor's aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

For each property tax year in which the Infrastructure Credit is applicable ("**Credit Term**"), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit D. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

**ARTICLE VI  
CLAW BACK**

**Section 6.1. Claw Back.** If the Sponsor fails to perform its obligations under this Fee Agreement as described in Exhibit E, then the Sponsor is subject to the claw backs as described in Exhibit E. Any amount that may be due from the Sponsor to the County as calculated in accordance with or described in Exhibit E is due within 30 days of receipt of a written statement from the County. If not timely paid, the amount due from the Sponsor to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section and Exhibit E survives termination of this Fee Agreement.

**ARTICLE VII  
DEFAULT**

**Section 7.1. Events of Default.** The following are "Events of Default" under this Fee Agreement:

(a) Failure to make FILOT Payments, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in FILOT Payments and requesting that it be remedied;

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a "**Cessation of Operations**" means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

(d) A representation or warranty made by the Sponsor which is deemed materially incorrect when deemed made;

(e) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;

(f) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or



(g) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Sponsor to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

**Section 7.2. Remedies on Default.**

(a) If an Event of Default by the Sponsor has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.

(b) If an Event of Default by the County has occurred and is continuing, the Sponsor may take any one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; 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 7.3. Reimbursement of Legal Fees and Other Expenses.** On the occurrence of an Event of Default, if a party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Fee Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

**Section 7.4. Remedies Not Exclusive.** No remedy described in this Fee Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Fee Agreement or existing at law or in equity or by statute.

**ARTICLE VIII  
PARTICULAR RIGHTS AND COVENANTS**

**Section 8.1. Right to Inspect.** The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

**Section 8.2. Confidentiality.** The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“*Confidential Information*”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County

pursuant to this Fee Agreement as “**Confidential Information.**” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Sponsor acknowledges 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. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Sponsor with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure, and to cooperate reasonably with any attempts by the Sponsor to obtain judicial or other relief from such disclosure requirement.

### **Section 8.3. Indemnification Covenants.**

(a) Except as provided in paragraph (d) below, the Sponsor shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “**Indemnified Party**”) harmless against and from all liability or claims arising from the County’s execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a), above. The County shall provide a statement of the costs incurred in the response or defense, and the Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Sponsor to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. The Sponsor is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything in this Section or this Fee Agreement to the contrary, the Sponsor is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; or (ii) resulting from that Indemnified Party’s own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

**Section 8.4. No Liability of County Personnel.** All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement are binding on members 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 for the payment of any moneys under this Fee Agreement may be had against any member of County Council or any elected or appointed

official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

**Section 8.5. *Limitation of Liability.*** The County is not liable to the Sponsor for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsor under this Fee Agreement. Notwithstanding anything in this Fee Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

**Section 8.6. *Assignment.*** The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

**Section 8.7. *No Double Payment; Future Changes in Legislation.*** Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. The Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

**Section 8.8. *Administration Expenses.*** The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$3,500. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

## ARTICLE IX SPONSOR AFFILIATES

**Section 9.1. *Sponsor Affiliates.*** The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor Affiliate to the County.

**Section 9.2. Primary Responsibility.** Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, “primary responsibility” means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

**ARTICLE X  
MISCELLANEOUS**

**Section 10.1. Notices.** Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is 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 of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

**IF TO THE SPONSOR:**

Project Remedy  
[ADDRESS]  
Attn:

**WITH A COPY TO (does not constitute notice):**

Nelson Mullins Riley & Scarborough LLP  
Attn: Edward Kluiters  
1320 Main Street, 17th Floor  
Columbia, SC 29201

**IF TO THE COUNTY:**

Richland County, South Carolina  
Attn: Richland County Economic Development Director  
2020 Hampton Street  
Columbia, South Carolina 29204

**WITH A COPY TO (does not constitute notice):**

Parker Poe Adams & Bernstein LLP  
Attn: Ray E. Jones  
1221 Main Street, Suite 1100 (29201)  
Post Office Box 1509  
Columbia, South Carolina 29202-1509

**Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsor.** Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim

under or by reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

**Section 10.3. Counterparts.** This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

**Section 10.4. Governing Law.** South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

**Section 10.5. Headings.** The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

**Section 10.6. Amendments.** This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

**Section 10.7. Agreement to Sign Other Documents.** From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

**Section 10.8. Interpretation; Invalidity; Change in Laws.**

(a) If the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, then the parties intend that the interpretation of this Fee Agreement be done 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 Act, to the extent not inconsistent with any of the explicit terms of this Fee Agreement.

(b) If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Fee Agreement are unimpaired, and the parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Fee Agreement so as to afford the Sponsor with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsor the strongest inducement possible, within the provisions of the Act, to locate the Project in the County.

(c) The County agrees that in case the FILOT incentive described in this Fee Agreement is found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue or Infrastructure Credit to the Sponsor (in addition to the Infrastructure Credit explicitly provided for above) to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

**Section 10.9. Force Majeure.** The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

**Section 10.10. Termination; Termination by Sponsor.**

(a) Unless first terminated under any other provision of this Fee Agreement, this Fee Agreement terminates on the Final Termination Date.

(b) The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project on providing the County with 30 days' notice.

(c) Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, survive such termination.

(d) In the year following termination, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement terminates to the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

**Section 10.11. Entire Agreement.** This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

**Section 10.12. Waiver.** Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

**Section 10.13. Business Day.** If any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Fee Agreement, and no interest will accrue in the interim.

**Section 10.14. Agreement's Construction.** Each party and its counsel have reviewed this Fee Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Fee Agreement or any amendments or exhibits to this Fee Agreement.

*[Signature pages follow]*

**IN WITNESS WHEREOF**, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk of the County Council; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

**RICHLAND COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
County Council Chair  
Richland County, South Carolina

**ATTEST:**

By: \_\_\_\_\_  
Clerk to County Council  
Richland County, South Carolina

*[Signature Page 1 to Fee in Lieu of Ad Valorem Taxes and Incentive Agreement]*

**PROJECT REMEDY**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

*[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes and Incentive Agreement]*



**EXHIBIT A**  
**PROPERTY DESCRIPTION**

**EXHIBIT B (see Section 9.1)**  
**FORM OF JOINDER AGREEMENT**

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Richland County, South Carolina (“County”) and Project Remedy (“Sponsor”).

**1. Joinder to Fee Agreement.**

[\_\_\_\_\_], a [STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, 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 as if it were a Sponsor [except the following: \_\_\_\_\_]; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor [except the following \_\_\_\_\_]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

**2. Capitalized Terms.**

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

**3. Representations of the Sponsor Affiliate.**

The Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor Affiliate to join with the Sponsor in the Project in the County.

**4. Governing Law.**

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

**5. Notice.**

Notices under Section 10.1 of the Fee Agreement shall be sent to:

[\_\_\_\_\_]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Entity  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

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

**RICHLAND COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT C (see Section 3.3)**  
**RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING**  
**ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY**

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,  
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY  
PRACTICES CONCERNING ECONOMIC DEVELOPMENT  
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

**Section 1.** The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

**Section 2.** The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

**Section 3.** A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office  
Attention: Kim Mann  
1201 Main Street, Suite 910  
Columbia, SC 29201

**Section 4.** This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

**Section 5.** The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


**Section 6.** In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA

  
Chair, Richland County Council

(SEAL)  
ATTEST:

  
Clerk to County Council

**EXHIBIT D (see Section 5.1)**  
**DESCRIPTION OF INFRASTRUCTURE CREDIT**

The Sponsor and any Sponsor Affiliate shall be entitled to an annual Infrastructure Credit equal to 40% for years one (1) through ten (10) against the amount of the annual FILOT Payment due for that year, anticipated to commence with the property tax payment for tax year 2022.

To the extent the Infrastructure Credit is used to pay for the cost of personal property and the removal of such personal property results in a penalty pursuant to 4-29-68(A)(2)(ii) of the Code, the Sponsor shall be entitled to an additional Infrastructure Credit against any remaining FILOT Payments to be made on property remaining subject to the FILOT Payments after the date of such removal.

**EXHIBIT E (see Section 6.1)**  
**DESCRIPTION OF CLAW BACK**

**Repayment Amount = Total Received x Claw Back Percentage**

**Claw Back Percentage = 100% - Overall Achievement Percentage**

**Overall Achievement Percentage = (Investment Achievement Percentage + Jobs Achievement Percentage) / 2**

**Investment Achievement Percentage = Actual Investment Achieved / Contract Minimum Investment Requirement [may not exceed 100%]**

**Jobs Achievement Percentage = Actual New, Full-Time Jobs Created / Contract Minimum Jobs Requirement [may not exceed 100%]**

In calculating each achievement percentage, only the investment made or new jobs achieved up to the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement will be counted.

*For example, and by way of example only, if the County granted \$100,000 in Infrastructure Credits, and \$3,000,000 had been invested at the Project and 10 jobs had been created by the end of the Investment Period, the Repayment Amount would be calculated as follows:*

*Jobs Achievement Percentage = 10/[Contract Minimum Jobs Requirement] = 58%*

*Investment Achievement Percentage = \$3,000,000/\$[Contract Minimum Investment Requirement] = 81%*

*Overall Achievement Percentage = (58% + 81%)/2 = 70%*

*Claw Back Percentage = 100% - 70% = 30%*

*Repayment Amount = \$100,000 x 30% = \$30,000*

The Sponsor shall pay any amounts described in or calculated pursuant to this Exhibit E within 30 days of receipt of a written statement from the County. If not timely paid by the Sponsor, the amount due is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation described in this Exhibit E survives termination of this Fee Agreement.



Richland County Council will accept applications through

**November 19, 2021 at 5:00 pm**

**For Service on the following Boards and/or Commissions**

1. Accommodations Tax – Seven (7) Vacancies (**TWO** applicants must have a background in the lodging industry, **THREE** applicants must have a background in the hospitality industry, **ONE** (1) applicant must have a cultural background and **ONE** (1) applicant will fill an At-large seat)
2. Airport Commission – One (1) Vacancy ( The applicant must reside within one mile of the airport: Rosewood, Shandon or Hollywood-Rose Wales Garden neighborhoods)
3. Board of Assessment Appeals – One (1) Vacancy
4. Board of Zoning Appeals – Two (2) Vacancies
5. Building Codes Board of Appeals – Six (6) Vacancies (**ONE** applicant must be from the Architecture Industry, **ONE** from the Gas Industry, **ONE** from the Building Industry, **ONE** from the Contracting Industry & **TWO** from Fire Industry as alternates)
6. Business Service Center – Two (2) Vacancies (**ONE** applicant must be from the Business Industry and **ONE** applicant must be CPAs)
7. Central Midlands Council of Governments – One (1) Vacancy
8. Community Relations Council – One (1) Vacancy
9. Employee Grievance Committee – One (1) Vacancy (**MUST** be a Richland County employee; 1 seat is an alternate)
10. Hospitality Tax – Three (3) Vacancies (**ONE** applicant must be from the Restaurant Industry)
11. Internal Audit Committee – Two (2) Vacancies (applicant with CPA preferred)
12. Music Festival – One (1) Vacancy
13. Planning Commission – Three (3) Vacancies
14. Richland Memorial Hospital Board of Trustees – Two (2) Vacancies

15. Township Auditorium – Two (2) Vacancies

16. Transportation Penny Advisory Committee (TPAC) – Five (5) Vacancies

Appointments will **tentatively** begin on **December 7, 2021**

**You may submit your application by mail, email or online:**

**Mail:** 2020 Hampton Street, Administration Bldg. (Suite 4069), Columbia, SC 29204

**OR**

P.O. Box 192, Columbia, SC 29202

**Email:** [rccoco@richlandcountysc.gov](mailto:rccoco@richlandcountysc.gov)

**Phone:** (803) 576-2061

Please visit [www.richlandcountysc.gov](http://www.richlandcountysc.gov) to submit an online application for the board you are interested in serving on. Once you have submitted the application, the Clerk of Council's Office will contact you to schedule a brief interview with the Rules and Appointments Committee.

You are **strongly encouraged** to visit [www.richlandcountysc.gov](http://www.richlandcountysc.gov) to learn more about the board, commission or committee you are interested in serving on and you are encouraged to **speak with your Council District Representative**. If you need additional information, please contact the Richland County Clerk to Council Office at (803) 576-2061 or by e-mail [rccoco@richlandcountysc.gov](mailto:rccoco@richlandcountysc.gov).

## Richland County Council Request for Action

**Subject:**

I move that if matters such as Clerk of Council Search or Compensation for Interim Clerk of Council are to be a part of the Employee Evaluation Oversight Ad Hoc Committee that the name of the Ad Hoc Committee be changed to better reflect what would fall under the purview of its function, responsibility, and/or purpose [MANNING – October 20, 2020]

**Notes:**

October 5, 2021 – The Rules and Appointments Committee recommended Council provide input as to the roles and responsibilities of the Employee Evaluation and Oversight Ad Hoc Committee.

## Richland County Council Request for Action

**Subject:**

All County Council contracts and agreements adopted by a majority vote of full Council will require a majority vote of full Council to amend and/or change [NOTE: This motion should be taken up as soon as possible, and not be addressed with the overall Council Rules update.] [LIVINGSTON – July 13, 2021]

**Notes:**

On any matter to be addressed by council, a motion to temporarily suspend any rule requiring a majority vote (whether stated explicitly or implicitly), shall require unanimous consent of those members present (i.e. use of a plurality vote for approval shall require unanimous consent of council).

**MUNICIPALITY APPOINTMENT AUTHORITY**

<b>BOARDS, COMMISSIONS &amp; COMMITTEES</b>	<b>ARCADIA LAKES</b>	<b>BLYTHEWOOD</b>	<b>CITY OF COLUMBIA</b>	<b>EASTOVER</b>	<b>FOREST ACRES</b>	<b>IRMO</b>	<b>NOTES</b>
Accommodations Tax Advisory Committee	N	Y	Y	N	N	Y	
Airport Commission (Hamilton-Owens)	N	N	N	N	N	N	
Animal Care Advisory Committee (County/City)	N	N	Y	N	N	N	
Board of Assessment Appeals	N	N	Y	N	N	N	
Board of Zoning Appeals	N	Y	Y	N	Y	Y	
Building Codes Board of Appeals	N	N	Y	N	N	N	
Business Service Center Appeals Board	N	N	N	N	N	N	Reviews Business Licensing appeals.
Central Midlands Council of Governments	N	N	N	N	N	N	Arcadia Lakes contracts w/ the COG on technical matters.
Central Midlands Regional Transit Authority Board	N	N	Y	Y	Y	Y	
Community Relations	N	N	Y	N	N	N	
Conservation Commission	N	N	N	N	N	N	Councilmembers appoint a representative from their respective district.
East Richland Public Service Commission	N	N	N	N	N	N	Appointee must live within the public service district.
Employee Grievance Committee	N	N	N	N	N	N	Must be Richland County Employee.
Historic Columbia	N	N	Y	N	N	N	
Hospitality Tax Committee	N	N	Y	N	N	N	
Internal Audit Committee (Unincorporated)	N	N	N	N	N	N	Committee audits Richland County Departments.
Lexington/Richland Alcohol & Drug Abuse Council	N	N	N	N	N	N	
Library Board of Trustees	N	N	N	N	N	N	
Midlands Regional Convention Center Authority	N	N	Y	N	N	N	Board is currently suspended.
Midlands Workforce Development Board	N	N	N	N	N	N	
Music Festival Commission	N	N	Y	N	N	N	
Nulla Bona Committee (Vice-Chair)	N	N	N	N	N	N	Council does not appoint to this committee.
Planning Commission	Y	Y	Y	N	Y	Y	
Procurement Review Panel	N	N	N	N	N	N	Reviews Richland County procurement matters.
Richland Memorial Hospital Board of Trustees	N	N	N	N	N	N	
River Alliance Board	N	N	Y	N	N	N	
Riverbanks Park Commission	N	N	Y	N	N	N	
Township Auditorium	N	N	N	N	N	N	
Transportation Penny Advisory Committee (TPAC)	Y	Y	Y	Y	Y	Y	

## Richland County Council Request for Action

**Subject:**

1. Direct the Rules Committee to determine which Richland County Boards, Committees and Commissions should have as a qualification that the person applying must reside in the unincorporated area of Richland County only. There are some of these positions where other municipalities appoint individuals and if a person applying for one of those positions resides in that municipality then they should make application through them [MALINOWSKI – October 6, 2020]
2. Based on the fact the Planning Commission makes decisions that affect unincorporated Richland County only, members assigned must reside in unincorporated Richland County [MALINOWSKI - September 21, 2021]

**Notes:** It is the policy of Richland County that where the County and any municipality each have appointing authority for any board, commission, or committee, Richland County will only appoint citizens residing in unincorporated Richland County. A citizen applying for such board, commission, or committee will be asked to apply with the municipality in which they reside.