

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR FAIRFIELD COUNTY
ORDINANCE NO. 621

AUTHORIZING THE EXECUTION AND DELIVERY OF AN INCENTIVE AND CONVEYANCE OF PROPERTY AGREEMENT AMONG FAIRFIELD COUNTY, PROJECT COMPACT AND CERTAIN OTHER PARTIES THERETO; A FEE IN LIEU OF AD VALOREM TAXES AGREEMENT BETWEEN FAIRFIELD COUNTY AND PROJECT COMPACT; THE TRANSFER OF REAL PROPERTY LOCATED IN FAIRFIELD COUNTY TO PROJECT COMPACT AND THE PROVISION OF OTHER INCENTIVES FOR PROJECT COMPACT; THE INCLUSION OF REAL PROPERTY LOCATED IN FAIRFIELD COUNTY IN THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK; THE EXECUTION AND DELIVERY OF DOCUMENTS NECESSARY TO EFFECT THE INTENT OF THIS ORDINANCE; AND OTHER RELATED MATTERS.

WHEREAS, Fairfield County, South Carolina ("County"), acting by and through its County Council ("County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended ("FILOT Act"), (i) to enter into agreements with qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina ("State") will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; and (ii) to covenant with such industry to accept negotiated fee payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment;

WHEREAS, pursuant to Title 4, Chapter 1, Section 170, Title 4, Chapter 1, Section 175, and Title 4, Chapter 29, Section 68, Code of Laws of South Carolina, 1976, as amended (collectively, "MCIP Act"), the County is authorized to (i) create multi-county industrial parks in partnership with contiguous counties; (ii) include the property of eligible companies within such parks as an inducement to locate within the County, which inclusion under the terms of Section 13 of Article VIII of the Constitution of the State of South Carolina makes such property exempt from ad valorem property taxes, therefore changing the character of the annual receipts from such properties from ad valorem property taxes to fees-in-lieu of ad valorem property taxes; and (iii) grant an annual tax credit against such fee-in-lieu of tax receipts in order to assist a company in paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the property of any company located within such multi-county industrial parks or for improved or unimproved real estate used in the operation of a commercial enterprise located within such multi-county parks in order to enhance the economic development of the County;

WHEREAS, under the authority provided in the MCIP Act, on April 15, 2003, the County and Richland County, South Carolina, jointly developed the I-77 Corridor Regional Industrial Park ("Park") and entered into an agreement entitled "Master Agreement Governing the I-77 Corridor Regional Industrial Park" ("Master Agreement"), to govern the operation of the Park;

WHEREAS, Project Compact, consisting of one or more entities, authorized to conduct and conducting or intending to conduct business in South Carolina (collectively, "Company"), is (i) making an investment of approximately \$18,200,000 to acquire or construct, or both, a corporate office and

manufacturing facility in the County, on a site more fully described on the attached Exhibit A (“Property”) and (ii) creating approximately 121 new, full-time jobs at the Property (collectively, (i) and (ii), “Project”);

WHEREAS, the County has determined to identify the Project as a project under the FILOT Act and intends this Ordinance to serve as confirmation of the identification of the project as economic development property, as described in and required by the FILOT Act;

WHEREAS, the County has determined to offer the Company incentives consisting of: (a) a FILOT at an assessment ratio of 6%, with a fixed millage rate of 403.5 for 30 years and an investment period of five (5) years; and (b) a special source revenue credit of 60% per year for a period of ten (10) years, as provided by the MCIP Act;

WHEREAS, the County is also offering additional incentives in the form of a conveyance of the Property to the Company and a grant of up to \$1,100,000 to be used as a reimbursement for expenditures on infrastructure serving the County and the Project, including site grading, and will assist the Company in obtaining other third party incentives as more fully outlined in the Incentive Agreement (as defined below);

WHEREAS, the terms of each of the incentives are more fully described in the fee agreement, attached as Exhibit B (“Fee Agreement”) and the incentive and property conveyance agreement attached hereto as Exhibit C (the “Incentive Agreement”);

WHEREAS, the County has determined to expand the Park boundaries to include the Project in the Park; and

WHEREAS, to the extent the County receives any third-party grant funds related to the Project, the County intends to accept and administer those funds for the Project’s benefit.

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

Section 1. *Project Identification.* The County finds the Project qualifies as a “project” and identifies the Project as economic development property, as described by the FILOT Act.

Section 2. *Statutory Findings.* The County finds that: (i) the Project will benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no (a) pecuniary liability of the County or incorporated municipality or (b) 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 to the public are greater than the costs to the public.

Section 3. *Authorization to Execute and Deliver Fee Agreement.* The Chair of County Council (“Chair”), or the Vice-Chair in the Chair’s absence, is authorized and directed to execute the Fee Agreement and the Incentive Agreement, which are in substantially final form as attached, with any minor modifications and revisions which do not materially affect the obligations and rights of the County under the Fee Agreement and the Incentive Agreement and which have appropriate County protections and clawbacks, and are approved by the Chair in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same; and the Chair is further authorized and directed to deliver the executed Fee Agreement and the Incentive Agreement to the Company.

Section 4. *Inclusion of Property in Park.* There is hereby authorized an expansion of the Park boundaries to include the Project. The Chair, or the Vice Chair in the event the Chair is absent, the County

Administrator and the Clerk to the County Council are each hereby 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 Master Agreement, the expansion shall be complete upon the adoption of this Ordinance and a companion ordinance by the Richland County Council.

Section 5. *Real Property Considerations.* The Chair (and his designated appointees) is authorized and directed, in the name of and on behalf of the County, to (i) execute and deliver purchase-sale agreements, option contracts, lease agreements, and other similar agreements, so long as each agreement has appropriate County protections and clawbacks; and (ii) expend, as the Chair (and his designated appointees) deems to be reasonably necessary and prudent to effect the intent of this Ordinance, \$1,100,000 in grant funds, a portion of which will be funded from not to exceed \$750,000 of the proceeds of the \$6,570,000 Fairfield County, South Carolina, Taxable General Obligation Bonds (Build American Bonds), Series 2009, and (iii) seek a voluntary closing agreement according to Internal Revenue Manual Part 7, Chapter 2, Section 3 and Internal Revenue Service Notice 2008-31 regarding the Bonds, which shall not be a condition to any of the contemplated transactions with, or the provision of incentives to the Company, each to assist the County in accomplishing the transfer of, and improvements to, the Property and the inducement of Project Compact to locate in the County.

Section 6. *Grant Acceptance and Administration.* To the extent the County receives any third-party grant funds related to the Project, the County agrees to accept and administer those funds for the Project's benefit according to any documents governing the receipt and expenditure of the grant funds.

Section 7. *Further Assurances.* The County Council confirms the authority of the Chair, or the Vice-Chair in the absence of the Chair, the County Administrator and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, County Administrator or Clerk to Council, as appropriate, to take whatever further action and to draft, execute, deliver and post whatever further documents as may be appropriate to effect the intent of this Ordinance.

Section 8. *Savings Clause.* If any portion of this Ordinance is deemed unlawful, unconstitutional or otherwise invalid, the validity and binding effect of the remaining portions are not affected thereby.

Section 9. *General Repealer.* All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

FAIRFIELD COUNTY, SOUTH CAROLINA

By: David L. Ferguson Sr
Chairman of County Council
Fairfield County, South Carolina

(SEAL)
ATTEST:

By: Sheryl M. Brown
Clerk to County Council
Fairfield County, South Carolina

READINGS:

First Reading:	December 9, 2013
Second Reading:	January 13, 2014
Public Hearing:	January 13, 2014
Third Reading:	February 4, 2014

EXHIBIT A

PROPERTY DESCRIPTION

TMS: A portion of both 184-00-00-060 and 184-00-00-096.

EXHIBIT B
FORM OF FEE AGREEMENT