

ORDINANCE NO. 446

First Reading: 11/11/02
Second Reading: 11/25/02
Third Reading: 04/14/03
Public Hearing: 04/14/03

MASTER AGREEMENT
GOVERNING THE
I-77 CORRIDOR REGIONAL INDUSTRIAL PARK
BETWEEN
RICHLAND COUNTY, SOUTH CAROLINA
AND
FAIRFIELD COUNTY, SOUTH CAROLINA

DATED AS OF APRIL 14, 2003

PREPARED BY:
PARKER POE ADAMS & BERNSTEIN L.L.P.
COLUMBIA, SOUTH CAROLINA
803-253-8917

INSTRUCTIONS FOR COUNTY AUDITOR AND COUNTY TREASURER

THE TAX STATUS OF THE REAL AND PERSONAL PROPERTY LOCATED WITHIN THIS MULTI-COUNTY INDUSTRIAL PARK WILL BE EXEMPT FROM AD VALOREM TAXES AND WILL BE SUBJECT INSTEAD, UNDER THE TERMS OF THE STATE CONSTITUTION, TO A FEE-IN-LIEU OF AD VALOREM TAXES EQUAL TO WHAT THE TAXES WOULD HAVE BEEN. NOTE, THAT THE FEE-IN-LIEU PAYMENTS MAY BE REDUCED BELOW NORMAL AD VALOREM TAX RATES IN THE EVENT THE PROPERTY IS ALSO SUBJECT TO A NEGOTIATED FEE-IN-LIEU OF TAXES ("FILOT") ARRANGEMENT WITH EITHER RICHLAND OR FAIRFIELD COUNTY. THEREFORE, WHEN PREPARING THE FEE BILLS FOR THE REAL AND PERSONAL PROPERTY LOCATED IN THE PARK, PLEASE REFERENCE YOUR FILOT RECORDS TO ENSURE YOU ARE USING THE CORRECT MILLAGE RATE AND ASSESSMENT RATIO.

ONCE A FEE BILL HAS BEEN PAID, THE PROVISIONS OF THIS AGREEMENT WILL GOVERN HOW THE FEES RECEIVED ARE TO BE DISTRIBUTED AMONG THE VARIOUS TAXING ENTITIES WITHIN THE COUNTY. BY LAW, THE COUNTIES MAY UNDER THE TERMS OF THIS AGREEMENT ALTER THE CUSTOMARY DISTRIBUTION OF REVENUES.

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THIS AGREEMENT, made and entered into as of the 14th day of April 2003, by and between Richland County, a political subdivision of the State of South Carolina ("Richland"); and Fairfield County, a political subdivision of the State of South Carolina ("Fairfield") ("Richland" and "Fairfield" referred to collectively herein as the "Counties"), pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, as amended, and Title 4, Chapter 1, Section 170 of the Code of Laws of South Carolina, 1976, as amended (the "Act").

RECITALS:

WHEREAS, in order to promote the economic welfare of their citizens, the Counties created the I-77 Corridor Regional Industrial Park (the "Park"); and,

WHEREAS, in response to requests from companies seeking to invest in either Richland or Fairfield, the Counties have heretofore expanded the boundaries of the Park to include additional property, which inclusion has afforded the requesting companies additional tax benefits under South Carolina law; and

WHEREAS, the Counties have entered into separate agreements to reflect each new phase of expansion of the Park ("Phase Agreements"); and

WHEREAS, in accordance with the Act, the Counties have provided for the sharing of expenses and revenues from the Park (hereafter, "Expenses" and "Revenues") in each of the Phase Agreements. The Counties initially established the revenue sharing ratio to allow the host county to retain 95% of the Revenues, with the partner county receiving 5% of the Revenues (this arrangement is hereafter referred to as "95/5"). The Counties later amended the revenue sharing ratio to allow the host county to retain 99%, with the partner county receiving 1% of the Revenues (this arrangement is hereafter referred to as "99/1"); and

WHEREAS, the Counties desire to preserve the revenue sharing scheme such that the 95/5 revenue sharing ratio is preserved on those properties to which it applies and the 99/1 revenue sharing ratio is likewise preserved and employed to any future expansions of the Park; and

WHEREAS, on September 4, 2001, the South Carolina Supreme Court issued an opinion in the case of *Horry County School District v. Horry County and the City of Myrtle Beach*, which provided guidance regarding provisions of the Act and established new requirements for the contents of multi-county park agreements; and

WHEREAS, in order to ensure compliance with the *Horry County School District* decision, the Counties now desire to adopt this Master Agreement (hereafter "Agreement"), which shall replace all of the Phase Agreements and serve as the governing document for the Park moving forward from the date hereof.

NOW, THEREFORE, on the basis of the premises and mutual covenants herein contained, the sufficiency of which consideration is acknowledged, the parties agree as set forth below:

**ARTICLE I
PARK BOUNDARIES**

Section 1.01. Phase I of the Park. Phase I of the Park ("Phase I") shall consist of those properties to which the Counties have historically applied a 95/5 revenue sharing arrangement. These properties are identified by tax map number on the attached "**Exhibit A: 95/5 Properties.**" The Counties do not intend that there will be any future expansion of Phase I.

Section 1.02. Phase II of the Park. Phase II of the Park ("Phase II") shall consist of those properties to which the Counties have historically applied a 99/1 revenue sharing arrangement. These properties are identified by tax map number on the attached "**Exhibit B: 99/1 Properties.**" The Counties intend that only Phase II will be subject to future expansion.

Section 1.03. Modification of Park Boundaries.

(a) The boundaries of the Park may be enlarged, to include additional properties in one or both Counties, or diminished from time to time, as authorized by ordinances adopted by the County Councils of both Counties.

(b) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and the attached Exhibit B shall be revised accordingly to reflect the addition of property to the Park or the removal of property from the Park. Each County shall file in its respective ordinance books either a copy or an original (depending on County practice) of the ordinance adopted by the County Council of such County pursuant to which such enlargement or diminution was authorized.

(c) Prior to the adoption by the Richland County Council and the Fairfield County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the respective County Council of the County in which the area proposed for deletion is located. Notice of such public hearing shall be published in a newspaper of general circulation in that County at least once and not less than 15 days prior to such hearing.

(d) Notwithstanding the foregoing, for a period of 30 years commencing with the later of the effective date of this Agreement or the effective date of the expansion of the boundaries of the Park to include such parcel, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner and the Counties and, if applicable, lessee of such parcel; and this sentence of this Agreement may not be modified or deleted herefrom for a period of thirty (30) years commencing with the effective date hereof; except as provided below.

**ARTICLE II
TAX STATUS OF PROPERTIES LOCATED IN THE PARK**

Section 2.01. Constitutional Exemption from Taxation. The Counties acknowledge that under the provisions of Article VIII, Section 13(D) of the South Carolina Constitution, all real and personal property located in the Park shall be exempt from all *ad valorem* taxation.

Section 2.02. Fee-in-Lieu of Taxes. Property located in the Park shall be exempt from *ad valorem* taxation only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement an amount equivalent to the *ad valorem* property taxes or other in lieu of payments that would have been due and payable but for the location of such property within the Park.

Section 2.03. Negotiated Fee-in-Lieu of Taxes. The amount of the annual payments due from the owner or lessee may be reduced if the owner or lessee has negotiated a FILOT incentive with either Richland or Fairfield pursuant to the provisions of Sections 12-44-10, *et seq.*, 4-12-30, or 4-29-67 of the Code of Laws of South Carolina 1976, as amended, or any successor provisions thereto as may be provided under South Carolina law. In such case, the terms of the executed FILOT agreement between the company and the applicable county shall govern the calculation of the annual FILOT payment.

ARTICLE III
SHARING OF REVENUES AND EXPENSES OF THE PARK

Section 3.01. Expense Sharing. The Counties shall share Expenses including, but not limited to, development, operations, maintenance and promotion of the Park. If the property is located in Fairfield, then Fairfield shall bear 100% of such expenses. If the property is located in Richland, then Richland shall bear 100% of such expenses. The Counties reserve the right to negotiate on a case-by-case basis the sharing of any additional expenditures that may be approved by both the Richland County Council and the Fairfield County Council.

Section 3.02. Revenue Sharing.

(a) Revenues generated within the Park from sources other than fees in lieu of *ad valorem* taxes shall be distributed directly to Fairfield and Richland according to the proportions established in this Section 3.02 herein to be expended in any manner as the County Council of each County deems appropriate.

(b) The Counties shall share all of the Revenues received in lieu of *ad valorem* taxes from properties located in the Park.

With respect to Phase I of the Park, if Revenues are generated by properties located in Fairfield, then Fairfield shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 95% of such Revenues and transmit 5% of such Revenues to Richland. Likewise, if Revenues are generated by properties located in Richland, then Richland shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 95% of such Revenues and transmit 5% of such Revenues to Fairfield.

With respect to Phase II of the Park, if Revenues are generated by properties located in Fairfield, then Fairfield shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 99% of such Revenues and transmit 1% of such Revenues to Richland. Likewise, if Revenues are generated by properties located in Richland, then Richland shall, after reimbursing itself for expenditures made to attract a particular investment and/or making any reductions required by law or other agreement, retain 99% of such Revenues and transmit 1% of such Revenues to Fairfield.

Section 3.03. Revenue Distribution Within Each County.

(a) In accordance with the provisions of the *Horry County School District* case, the Counties acknowledge they are required to set forth herein the scheme for distribution of Revenues received from the Park to other taxing entities within each of the Counties. Fairfield hereby elects to retain all of the Revenues from the Park. If Revenues are generated by properties located in Richland, then Richland shall retain a portion as may be necessary to reimburse it for any investments made in relation to attracting each new tenant in the Park. The Richland County Council reserves the right to determine the reimbursement amount on a case by case basis. Revenues remaining after such reimbursement shall be distributed on a pro-rata basis to the entities that would otherwise levy tax millage on the properties located in the Richland portion of the Park, if such properties were not located in the Park. Any school districts receiving a distribution of Revenues, shall divide the Revenues on a pro rata basis between operational and debt service expenditures in accordance with the amount of operating and debt service millage levied by such school district or collected on behalf of such school district.

(b) Either County may unilaterally amend the distribution scheme applicable to such County and set forth in section (a) above. Such amendment must be accomplished by passage of an ordinance.

Section 3.04. Annual Report and Disbursement. Not later than July 15 of each year, starting July 15, 2004, each of the Counties shall prepare and submit to the other County a report detailing the Revenues owed to the other County under the terms of this Agreement. A check for the amount reflected in the report shall be delivered at the same time.

ARTICLE IV MISCELLANEOUS

Section 4.01. Jobs Tax Credit Enhancement. Business enterprises locating in the Park shall be entitled to such enhancement of the regular jobs tax credits authorized by Section 12-6-3360 of the Code of Laws of South Carolina 1976, as amended, or any successive provisions, as may be provided under South Carolina law.

Section 4.02. Assessed Valuation. For the purpose of bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to the counties which are party to this Agreement must be identical to the percentage of total fee-in-lieu of *ad valorem* tax revenues retained and received by each such County in the preceding fiscal year.

Section 4.03. Non-Qualifying Use. In the event that a tract or site of land located in the Park is purchased and developed by a business enterprise which locates employees within the Park and which employees, because of the nature of their employment, do not qualify for the corporate income tax credit provided in South Carolina Code of Laws, 1976, as amended, Section 12-6-3360 (the "Non-Qualifying Site"), the Counties may remove, by ordinance, the Non-Qualifying Site from the Park pursuant to the provisions of Section 1.03(c) hereof.

Section 4.04. Records. The Counties covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual fee-in-lieu of tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the fees-in-lieu of taxes so imposed, all as such records became available in the normal course of County procedures.

Section 4.05. Applicable Law. In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

Section 4.06. Law Enforcement. The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

Section 4.07. *Binding Effect of Agreement.* This Agreement serves as a written instrument, which is binding upon the signatory parties.

Section 4.08. *Severability.* In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Agreement.

Section 4.09. *Complete Agreement: Amendment.* This Agreement constitutes the entire agreement between the parties and supersedes all agreements, representations, warranties, statements, promises and understandings, whether oral or written, with respect to the subject matter hereof, and no party hereto shall be bound by any oral or written agreements, statements, promises, or understandings not specifically set forth in this Agreement. Except for the amendment provided for in Section 3.03(b) above, this Agreement may be amended upon the adoption of an ordinance by both of the respective County Councils of Richland and Fairfield.

Section 4.10. *Counterpart Execution.* This Agreement may be executed in multiple counterparts.

Section 4.11. *Termination.* Notwithstanding any provision of this Agreement to the contrary, Fairfield and Richland agree that this Agreement may not be terminated by either party for a period of 30 years commencing with the effective date hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and the year first above written.

Witness:

Ashley Bloor
T. Cary McSwain

RICHLAND COUNTY, SOUTH CAROLINA

By: Bernie G. Scott
Council Chair

Attest: Michelle R. Brown-Dick
Clerk to County Council

Witness:

Reba L. Clouse
Thomas Richardson

FAIRFIELD COUNTY, SOUTH CAROLINA

By: Henry
Council Chair

Attest: Sheryl M. Brown
Clerk to County Council

EXHIBIT A

**95/5 PROPERTIES
As of April 14, 2003**

COMPANY NAME	TAX MAP NUMBER	COUNTY
(Baldwin)	200-00-00-006-000	Fairfield
(Natural Area)*	214-00-00-033-000	Fairfield
(Vacant tract)	200-00-00-007-000	Fairfield
American Italian Pasta Company	18900-02-01	Richland
American Koyo Bearings (1994)	14900-01-02, 14900-01-01, 14900-01-16	Richland
American Koyo Bearings (1997)	14900-01-02, 14900-01-01, 14900-01-16	Richland
APAC	03916-01-07	Richland
Belk, Inc. & CK Columbia #1 (2000)	17600-01-22	Richland
Blue Cross/Blue Shield (1999)	19809-01-01, 19708-03-01	Richland
Boozer Lumber Company (1997)	16305-02-01 (original site)	Richland
Bose Corporation (1994)	17500-02-01 (portion), 17500-02-08 (portion), 17500-02-11, 17500-02-12, 17500-02-13, 17600-01-10	Richland
Bose Corporation (1996)	17500-02-17	Richland
Carbbits Incorporated (1996)	25800-07-06	Richland
Carolina Ceramics (1999)	22804-05-04, 22804-05-05, 22804-05-06	Richland
Consolidated Systems, Inc. (STAGE II)	08716-01-03, 11100-01-03	Richland
Gividi USA Inc.	200-00-00-073-000	Fairfield
Holopack International Corporation	17200-02-11	Richland
Hueck Foils, Inc.	14900-01-01	Richland
Huron Technology Corporation (FinnChem)	40900-01-01	Richland
IKON / Computer Group (1996)	17200-02-21	Richland
Iowa Beef Products, Inc (1996) (KPR Holdings)	13602-02-03, 13602-02-02	Richland
Isola Laminate Systems	214-00-00-032-000	Fairfield
Kal Kan Foods, Inc.	16200-06-01, 19000-05-01	Richland
Lamson & Sessions (Quatro Mid-Atlantic)	17600-01-17	Richland
Lang-Mekra North America LLC	200-00-00-063-000	Fairfield
Makat USA	200-00-00-009-000	Fairfield
Metal & Wire Products	200-00-00-065-000	Fairfield
Michelin North America Inc.	151-00-00-015-000	Fairfield
Modine Manufacturing (1995)	14900-01-01 (portion)	Richland
Plasti Line, Inc.	19000-05-06	Richland
PMSC/Mynd	14900-02-1; 14900-02-11	Richland
Schmalbach-Lubeca Plastic (AMCOR, PCO Carolina Pines LP, & Wilmington Trust Co.))	17600-01-02 (portion)	Richland
SCT Utilities (1999)	17200-02-11	Richland
Select Comfort (1997)	04000-05-18	Richland
Siemens Diesel Systems Technology	14900-01-02 and 14900-01-01	Richland
SMI-Owen Steel Company (1999)	13605-01-01, 13607-02-01, 13511-03-01	Richland
Spirax Sarco Inc.	14900-01-27, 14900-01-32	Richland
The State Newspaper (1998)	11213-02-02	Richland
UNUM/Colonial Life (Unumprovident)	0703-04-029	Richland

* N/A

EXHIBIT B

**99/1 PROPERTIES
As of April 14, 2003**

COMPANY NAME	TAX MAP NUMBER	COUNTY
ALD Thermal Treatment, Inc.	17600-01-12	Richland
American Spiralweld Pipe Company	18900-02-01 (portion)	Richland
Blue Cross/Blue Shield (2000)	19809-01-01, 19708-03-01	Richland
SYSCO Food Services	13716-01-08	Richland
Verizon Wireless (Bell Atlantic Mobile) (1999)	09016-13-08	Richland