

ORDINANCE NO. 424

AUTHORIZING AN AGREEMENT FOR DESIGNATION OF PHASE XXIV (ALD THERMAL TREATMENT, INC.) OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK BY AND BETWEEN FAIRFIELD COUNTY, SOUTH CAROLINA AND RICHLAND COUNTY, SOUTH CAROLINA, SO AS TO INCLUDE PROPERTY IN THE JOINT COUNTY INDUSTRIAL PARK GEOGRAPHICALLY LOCATED IN RICHLAND COUNTY, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.

WHEREAS, Fairfield County, South Carolina (the "County") and Richland County, South Carolina (jointly the "Counties") are authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170, South Carolina Code of Laws, 1976, as amended, (collectively, the "Act") to jointly develop an industrial or business park within the geographical boundaries of one or more of the member Counties; and

WHEREAS, in order to promote the economic welfare of the citizens of the County by providing employment and other benefits to the citizens of the County, the Counties previously entered into agreements for designation of properties to be included in the I-77 Corridor Regional Industrial Park (the "Park") as provided by the Act; and

WHEREAS, the Counties desire to expand the boundaries of the Park to include property occupied by ALD Thermal Treatment, Inc. (the "Company").

NOW, THEREFORE, BE IT ORDAINED BY THE FAIRFIELD COUNTY COUNCIL:

Section 1: The Chairperson is hereby authorized to execute an agreement between the Counties for Phase XXIV of the Park, the form of which is attached hereto and incorporated herein as *Exhibit A*. Said Agreement shall include property occupied by the Company as indicated on the attached *Exhibit A*. The form, terms and provisions of the Agreement (attached as *Exhibit A*) are hereby approved, and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Agreement were set out in this Ordinance in its entirety.

Section 2: 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.

This Ordinance shall be effective after the third and final reading.

FAIRFIELD COUNTY, SOUTH CAROLINA

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

ATTEST:

Shirley M. Brown
Clerk to County Council
Fairfield County, South Carolina

First Reading: 10/22/01
Second Reading: 11/12/01
Third Reading: 12/17/01
Public Hearing: 12/17/01

APPENDIX A

PROPERTY DESCRIPTION

PARCEL 1:

All that certain piece, parcel or tract of land, with any improvements thereon, situate, lying and being on the northeastern side of Carolina Pines Drive, northeast of the City of Columbia, in the County of Richland, State of South Carolina, being fully shown and designated as Parcel No. 1, containing 4.71 acres on a plat prepared for ALD Thermal Treatment, Inc., by Inman Land Surveying Company, Inc., Richard P. Inman, PLS, dated January 11, 2001, revised February 26, 2001 and recorded in the Office of the ROD for Richland County in Plat Book 488, page 1356, Reference to said plat is made for a more complete and accurate description.

PARCEL 2:

All that certain piece, parcel or tract of land, with any improvements thereon, situate, lying and being on the northeastern side of Carolina Pines Drive, northeast of the City of Columbia, in the County of Richland, State of South Carolina, being fully shown and designated as Parcel No. 2, containing 3.56 acres on a plat prepared for ALD Thermal Treatment, Inc., by Inman Land Surveying Company, Inc., Richard P. Inman, PLS, dated January 11, 2001, revised February 26, 2001, and recorded in the Office of the ROD for Richland County in Plat Book 488, page 1356. Reference to said plat is made for a more complete and accurate description.

AGREEMENT FOR DESIGNATION
OF THE
I-77 CORRIDOR REGIONAL INDUSTRIAL PARK
PHASE XXIV
ALD THERMAL TREATMENT, INC.

Dated as of December 1, 2001

THIS AGREEMENT, made and entered into as of the 1st day of the month of December, 2001, by and between Fairfield County, a political subdivision of the State of South Carolina ("Fairfield"); and Richland County, a political subdivision of the State of South Carolina ("Richland"), is made 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").

WHEREAS, on February 22, 1993, the respective County Councils of Fairfield and Richland, committed to the joint investigation of the benefits of establishing a Multi-County Joint Regional Industrial Park or Parks; and

WHEREAS, acting through their respective Councils, Fairfield and Richland did appoint three representatives each to the Fairfield-Richland Joint Industrial Park's Study Committee ("Study Committee"); and

WHEREAS, based on the recommendation of the Study Committee, the respective County Councils of Fairfield and Richland created the I-77 Corridor Regional Industrial Park (the "Park"), and have since expanded the Park to include a total of 23 Phases.

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

Section 1. *Establishment of a New Phase of the Park.* This Agreement provides for the establishment and designation of the I-77 Corridor Regional Industrial Park-Phase XXIV ("Phase XXIV"), which comprises the property described in Appendix A (the "Property"), attached hereto and made a part of this Agreement; whereon ALD Thermal Treatment, Inc., has located its facility in Richland County, South Carolina.

Section 2. *Allocation of Expenses.* Fairfield and Richland shall bear expenses including, but not limited to, development, operations, maintenance and promotion of the Park, in the following proportions:

If property is in the Richland portion of the Park:

- | | | | |
|----|------------------|---|-----|
| A. | Richland County | - | 99% |
| B. | Fairfield County | - | 1% |

Provided, however, in no event shall Fairfield be responsible for sharing any portion of the costs incurred by Richland or the development expenses committed to by Richland either on behalf of any tenant of the Park located in Richland or in conjunction with any State agency or political subdivision prior to the effective date of this Agreement.

If property is in Fairfield portion of the Park:

- | | | | |
|----|------------------|---|-----|
| A. | Richland County | - | 1% |
| B. | Fairfield County | - | 99% |

Provided, however, in no event shall Richland be responsible for sharing any portion of the costs incurred by Fairfield or the development expenses committed to by Fairfield either on behalf of any tenant of the Park located in Fairfield or in conjunction with any State agency or political subdivision prior to the effective date of this agreement.

Section 3. Basis of Revenue. Under the pertinent provisions of the South Carolina State Constitution and the Act, a fee equivalent to the *ad valorem* taxes normally assessed on the Property will be collected in lieu of *ad valorem* taxes. Such fee may be reduced in the event either Richland or Fairfield has entered into a fee-in-lieu of taxes arrangement with the company seeking to have its property included within the Park. In such cases, the amount of the fee revenue generated by property located within the Park shall be governed by the applicable fee agreements.

Section 4. Allocation of Revenues. Richland and Fairfield shall receive an allocation of all revenue generated by the Park through payment of fees-in-lieu of *ad valorem* property taxes or from any other source in the following proportions:

If property is in the Richland portion of the Park:

- | | | | |
|----|------------------|---|-----|
| A. | Richland County | - | 99% |
| B. | Fairfield County | - | 1% |

If property is in the Fairfield portion of the Park:

- | | | | |
|----|------------------|---|-----|
| A. | Richland County | - | 1% |
| B. | Fairfield County | - | 99% |

Section 5. Revenue Allocation Within Each County. (a) Revenues generated within the Park from sources other than fees paid in lieu of *ad valorem* property taxes shall be distributed directly to Richland and Fairfield according to the proportions established in Section 4 herein to be expended in any manner as the County Council of each County deems appropriate.

(b) Revenues generated by property located within Phase XXIV of the Park through the payment of fees-in-lieu of *ad valorem* property taxes ("Park Revenues") shall be distributed to Richland and Fairfield, as the case may be, according to the proportions established by Section 4 herein. Park Revenues may be generated by property located within the boundaries of Richland County, in which case Richland would be the Host County and Fairfield would be the Partner County, or property may be located in Fairfield County, in which case Fairfield would be the Host County and Richland would be the Partner County. In the case where either County serves as Host County, Park Revenues shall be distributed to the taxing entities within such Host County as follows:

1. Richland County: Pursuant to Ordinance No. 038-01HR adopted by the Richland County Council on May 15, 2001, Park Revenues shall be divided among the taxing entities that otherwise would have received *ad valorem* tax revenues from property prior to such property being placed in the Park (such entities shall be referred to as "Taxing Entities"). Each individual Taxing Entity shall receive a proportional share of the Park Revenues equal to the ratio of the millage levied by each individual Taxing Entity to the total amount of millage levied by all of the Taxing Entities in the year of distribution. To the extent that one or more of the Taxing Entities is a duly constituted school district levying both operating and debt service millage, then the proportion of Park Revenues received by such Taxing Entity should be divided on a pro rata basis in accordance with the millage rates levied for operational and debt service expenditures.
2. Fairfield County: Park Revenues shall be divided among the taxing entities that otherwise would have received *ad valorem* tax revenues from property prior to such property being placed in the Park (such entities shall be referred to as "Taxing Entities"). Each individual Taxing Entity shall receive a proportional share of the Park Revenues equal to the ratio of the millage levied by each individual Taxing Entity to the total amount of millage levied by all of the Taxing Entities in

the year of distribution. To the extent that one or more of the Taxing Entities is a duly constituted school district levying both operating and debt service millage, then the proportion of Park Revenues received by such Taxing Entity should be divided on a pro rata basis in accordance with the millage rates levied for each between operational and debt service expenditures.

In the case where either County serves as the Partner County, thereby receiving a 1% distribution in accordance with Section 4 hereof, the Partner County will retain the whole amount for use as the County Council of such County deems appropriate.

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

Section 6. *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, or any successive provisions, as may be provided under South Carolina law.

Section 7. *Exemption From Ad Valorem Taxation.* All properties located within the Park are exempted from *ad valorem* taxation.

Section 8. *Assessed Valuation.* For the purpose of bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Sec. 59-20-20(3) of the Code, 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 9. *Governing Law.* 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 10. *Binding Effect of Agreement.* This Agreement serves as a written instrument, which is binding upon the signatory parties.

Section 11. *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 12. *Complete Agreement: Amendment.* This Agreement constitutes the entire agreement between the parties and superseded 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 5(c) above, this Agreement may be amended upon affirmative vote of both of the respective County Councils of Fairfield and Richland.

Section 13. *Counterpart Execution.* This agreement may be executed in multiple counterparts.

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

Witness:

Candice Ann Yarborough

Michelle H. Raton

FAIRFIELD COUNTY

By: David L. Ferguson Sr
Council Chair

Attest: Sheryl M. Brown
Clerk

Witness:

RICHLAND COUNTY

By: _____
Council Chair

Attest: _____
Clerk