



## ORDINANCE NO. 697

First Reading: April 9, 2018  
Second Reading: April 23, 2018  
Public Hearing: May 14, 2018  
Third Reading: May 14, 2018

An Ordinance Authorizing the Execution and Delivery of an Amendment to a Fee Agreement Between Fairfield County and Element TV Company, LP; an Amendment to a Special Source Revenue Credit Agreement Between Fairfield County and Element Real Estate Holdings, LLC; an Amendment to a Lease Agreement Between Fairfield County and Element Real Estate Holdings, LLC; the Execution and Delivery of Such Other Documents As May Be Necessary to Effect the Intent of this Ordinance; and Other Matters Related Thereto.

**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, (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 in lieu of *ad valorem* taxes ("FILOT") payments 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, 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 FILOT payments; and (iii) grant an annual tax credit against such FILOT payments 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**, with respect to a project located in the County ("Project") and pursuant to Ordinance No. 618 adopted by County Council on July 31, 2013, the County and Element TV

Company, LP ("Element TV") entered into an August 1, 2013 Fee Agreement; the County and Element Real Estate Holdings, LLC ("Element Real Estate") entered into an August 1, 2013 Special Source Revenue Credit Agreement; and the County and Element Real Estate entered into an October 11, 2013 Lease Agreement (collectively, "Agreements");

**WHEREAS**, Element TV and Element Real Estate (collectively, "Companies"), by their investments in the Project, have created significant employment in and made significant economic contributions to the County;

**WHEREAS**, based upon certain unforeseen factors relating to federal tariffs, the Project has not yet achieved the investment and job creation levels desired by the Companies and the County and referenced in the Agreements;

**WHEREAS**, in response to the Companies' request and in order to induce the Company to remain in the County and to support the Companies' efforts to continue and expand their operations in the County, the County desires to amend the Agreements;

**WHEREAS**, there have been prepared and presented to this meeting of County Council the proposed form of the amendments to the Agreements ("Amendments");

**WHEREAS**, it appears that each of the Amendments now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended; and

**WHEREAS**, the terms of each of the Amendments are more fully described in Exhibits A, B, and C hereto.

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

**Section 1.** The County Council has made and hereby makes the following findings on the basis of the information supplied to it by the Companies:

(a) It is anticipated that the Amendments will serve as an inducement to the Companies to remain in the County and to continue and expand their operations in the County, and that the Project will continue to benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally;

(b) Neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against their general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes; and

(d) The benefits of the Project are greater than the costs.

**Section 2. Authorization to Execute and Deliver Fee Agreement and Credit Agreement.** The Chair of County Council ("Chair"), or the Vice-Chair in the Chair's absence, is authorized and directed to execute the Amendments, which are in substantially final form as attached, with any modifications and revisions which do not materially affect the obligations and rights of the County, 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 Amendments to the Companies.

**Section 3. 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 County Council, as appropriate, to take whatever further action and to draft, execute, deliver and post whatever further documents may be appropriate to effect the intent of this Ordinance.

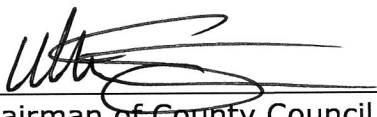
**Section 4.** This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

**Section 5.** The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.


**Section 6.** All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and revoked and rescinded, or amended as provided in the Amendments, as necessary to carry out the intent and substance of this Ordinance, and this Ordinance shall take effect and be in full force from and after its passage and approval.

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:   
Chairman of County Council  
Fairfield County, South Carolina

(SEAL)  
ATTEST:

By:   
Clerk to County Council  
Fairfield County, South Carolina

**EXHIBIT A**

**FORM OF AMENDMENT TO FEE AGREEMENT**

**EXHIBIT B**

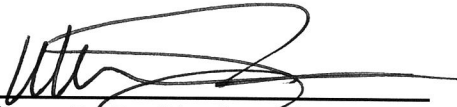
**FORM OF AMENDMENT TO SPECIAL SOURCE REVENUE CREDIT AGREEMENT**

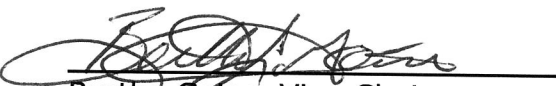
**EXHIBIT C**

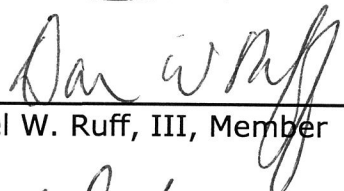
**FORM OF AMENDMENT TO LEASE AGREEMENT**

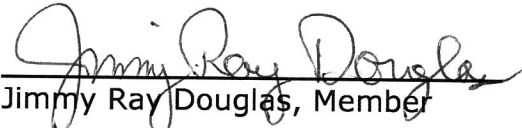
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ADOPTED THIS 14<sup>th</sup> DAY OF May, 2018, BY ORDER OF THE FAIRFIELD COUNTY COUNCIL.

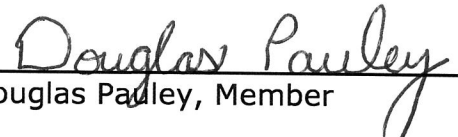
  
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William B. Smith, Jr., Chairman


  
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Bertha Goins, Vice-Chair

  
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Daniel W. Ruff, III, Member

  
\_\_\_\_\_  
Jimmy Ray Douglas, Member

  
\_\_\_\_\_  
Mikel Trapp, Member

  
\_\_\_\_\_  
Douglas Pauley, Member

  
\_\_\_\_\_  
Cornelius Robinson, Member

ATTEST:

  
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Patti L. Davis, Clerk to Council