

STATE OF SOUTH CAROLINA)	
)	ORDINANCE NO. 731
COUNTY OF FAIRFIELD)	

ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND BETWEEN FAIRFIELD COUNTY, SOUTH CAROLINA AND NEW NIGHTINGALE, LLC PROVIDING FOR A PAYMENT OF A FEE IN LIEU OF TAXES AND OTHER MATTERS RELATED THERETO.

WHEREAS, Fairfield County, South Carolina (the "County") acting by and through its County Council (the "County Council") is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the "Act"), to enter into fee agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the "State") and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the manpower, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally; and

WHEREAS, New Nightingale, LLC, a Delaware limited liability company (the "Company") intends to invest in the establishment of a manufacturing facility through the acquisition of land, a building, and improvements thereon (the "Land and Building"); the construction of improvements thereon and/or therein; and/or the acquisition of personal property, including, but not limited to, machinery, equipment, and furniture to be installed on and/or in the Land and Building, which would constitute a project within the meaning of the Act and which are eligible for inclusion as economic development property, the cost of which is estimated to be in compliance with Section 12-44-30(7) of the Act (the "Project"), all as more fully set forth in the Fee Agreement attached hereto, and provided that approvals of various incentives contemplated for the Project are formalized by the State and/or County; and

WHEREAS, pursuant to an Inducement Resolution dated as of November 11, 2019, the County authorized the execution of an agreement providing for fee in lieu of tax payments; and

WHEREAS, the Company has caused to be prepared and presented to this meeting the form of the Fee Agreement by and between the County and the Company (the "Fee Agreement"), which provides for fee in lieu of tax payments utilizing a 4% assessment ratio for a period of 30 years for the Project or each component thereof placed in service during the initial investment period and any investment period extension to which the County and the Company agree, the issuance of special source revenue credits, and an alternative payment method as provided pursuant to Section 12-44-50(A)(3) of the Act; and

WHEREAS, it appears that the Fee Agreement, which is 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.

NOW, THEREFORE, BE IT ORDAINED by the County Council in a meeting duly assembled as follows:

<u>Section 1</u>. In order to promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State of South Carolina by assisting the Company to expand or locate an industrial facility in the State of South Carolina, the Fee Agreement is hereby authorized, ratified, and approved.

Section 2. It is hereby found, determined, and declared by the County Council, as follows:

- (a) The Project will constitute a "project" as said term is referred to and defined in the Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.
- (b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made and the anticipated costs and benefits to the County.
- (c) 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.
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.
- (g) The benefits of the Project to the public will be greater than the costs.

Section 3. The form, terms, and provisions of the Fee Agreement presented to this meeting are hereby approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and/or the County Administrator are authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of Counsel to the County, such official's execution thereof to constitute conclusive evidence of

such official's approval of any and all changes or revisions therein from the form of the Fee Agreement now before this meeting.

- <u>Section 4</u>. The Chairman of the County Council and/or the County Administrator, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.
- <u>Section 5</u>. 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 this Ordinance shall take effect and be in full force from and after its passage and approval.

(SIGNATURE PAGE TO FOLLOW)

Passed and approved this 11th day of November, 2019.

FAIRFIELD COUNTY,
SOUTH CAROLINA

Signature:
Name:
Cornelis foliasor

Title:
Charran

COUNTY OF FAIRFIELD

Signature:
Name:
Cornelis foliasor

Nam

I, the undersigned, Clerk to County Council of Fairfield County, South Carolina ("County Council"), DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct, and verbatim copy of an Ordinance adopted by the County Council. The Ordinance was read and received a favorable vote at three public meetings of the County Council on October 14, 2019, October 21, 2019, and November 11, 2019. At least one day passed between first and second reading, and at least seven days passed between second and third readings. A public hearing was held on November 11, 2019, and notice of the public hearing was published in *The Voice of Fairfield and Blythewood* on October 17, 2019. At each meeting, a quorum of County Council was present and remained present throughout the meeting.

Attached hereto are excerpts of the minutes of the meetings of the County Council. The County Council complied with the Freedom of Information Act, Chapter 4, Title 30 of the S.C. Code of Laws, 1976, in connection with said meetings of County Council.

The Ordinance is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Fairfield County Council, South Carolina, as of this / day of November, 2019.

Signature:

Name:

Title: Clerk to County Council

1st Reading: 10-14-2019 2nd Reading: 10-21-2019 Public Hearing: 11-11-2019 3rd Reading: 11-11-2019