

STATE OF SOUTH CAROLINA)
)
COUNTY OF EDGEFIELD)

ORDINANCE NO. 20-21-786

AN ORDINANCE AUTHORIZING THE DEVELOPMENT OF A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK IN CONJUNCTION WITH AIKEN COUNTY, SUCH INDUSTRIAL/BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN AIKEN COUNTY AND ESTABLISHED PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH AIKEN COUNTY TO PROVIDE FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXATION; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Edgefield County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered to establish, in conjunction with one or more other counties, a joint county industrial or business park (each a "Park") pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina, and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code, as amended (the "Act") to further the investment of capital and/or the creation of jobs in the County, and to facilitate the grant of special source revenue credits; and

WHEREAS, a Company known to the County as Project Light, and its subsidiary, acting for itself, one or more affiliates, and/or project sponsors (the "Company") are considering the establishment and/or expansion and operation of certain real and personal property, one or more existing buildings, and other existing real property improvements located in Aiken County, including, but not limited to, land, real estate improvements and personal property (the "Project Sites"); and

WHEREAS, in accordance with Article VIII, Section 13(D) of the South Carolina Constitution and the Act, real and personal property having a situs in a Park, is exempt from all *ad valorem* taxation, but, the owners or lessees of such real and personal property are obligated to make, or cause to be made, payments in lieu of taxes to the county in which such property is located in the total amount equivalent to the *ad valorem* property taxes or other fee in lieu of tax payments that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within such Park and such exemption (each, a "Fee Payment"); and

WHEREAS, pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the Act, the County and Aiken County, South Carolina ("Aiken County") desire to jointly develop a Park (the "Aiken-Edgefield Park") by entering into an Agreement for Development of a Joint County Industrial and Business Park (the "Aiken-Edgefield Park Agreement"), the forms, terms, provisions and conditions of which are presented to this meeting and filed with the Clerk to Council, and which is attached hereto as **EXHIBIT A**; and

WHEREAS, the County has determined it will be beneficial to the County to enter into the Aiken-Edgefield Park with Aiken County;

NOW, THEREFORE, BE IT ORDAINED by the Council, as follows:

Section 1. Statutory Findings.

Council makes the following additional findings:

(a) The County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(b) The operation of the Project Sites and future investment by the Company are beneficial to the County.

(c) The Project Sites 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 will give rise to no pecuniary liability of the County or a charge against its general credit or taxing power;

(e) The purposes to be accomplished by the Company, *i.e.*, economic development and addition to the tax base of the County and Aiken County, are proper governmental and public purposes.

(f) The inducement of the location or expansion of the Project Sites within Aiken County and the State is of paramount importance.

(g) The benefits of the continued operation of the Project Sites to the public will be greater than the costs to the public.

Section 2. Revenue Allocation within the County

With respect to the revenues received and/or retained by Edgefield County pursuant to the Park Agreement which relate to the County's 2021 tax period and each tax period thereafter, all revenues shall be distributed within the County to the taxing entities general operating accounts within the County, and no others, in the same ratio as each taxing entity would receive from the property located in a Park if the standard *ad valorem* tax were collected and distributed for general operating only.

Section 3. Authority to Act.

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Aiken-Edgefield Park Agreement, and the performance of all obligations of the County under and pursuant to the Aiken-Edgefield Park Agreement.

Section 4. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 5. Controlling Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Edgefield County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 6. Effective Date.

This ordinance is effective upon third reading.

Enacted and approved, in meeting duly assembled, this ____ day of _____, 2021.

EDGEFIELD COUNTY, SOUTH CAROLINA

By: _____
Scott Cooper, Chairman, County Council,
Edgefield County, South Carolina

[SEAL]

Attest:

By: _____
Tax Potts, Clerk to County Council
Edgefield County, South Carolina

First Reading:
Second Reading:
Public Hearing:
Third Reading:

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN) **AGREEMENT FOR DEVELOPMENT OF A**
COUNTY OF EDGEFIELD) **JOINT COUNTY INDUSTRIAL AND**
) **BUSINESS PARK (PROJECT LIGHT)**
) **(AIKEN COUNTY/**
) **EDGEFIELD COUNTY PARK)**

THIS AGREEMENT for the development of a joint county industrial and business park to be located within Aiken County and Edgefield County is made and entered into as of _____, 2021, by and between Aiken County, South Carolina (“Aiken County”) and Edgefield County, South Carolina (“Edgefield County”).

RECITALS

WHEREAS, Aiken County and Edgefield County are contiguous counties which, pursuant to Ordinance No. _____, enacted by Aiken County Council on _____, 2021, and Ordinance No. _____ enacted by Edgefield County Council on _____, 2021, have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be developed in Aiken County and Edgefield County a joint county industrial and business park (the Aiken County/Edgefield County Park, referred to herein as the “Park”), to be located upon property more particularly described in **Exhibit A (Aiken Property)** and **Exhibit B (Edgefield Property)** hereto; and

WHEREAS, as a consequence of the development of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for such exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Binding Agreement.** This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on Aiken County and Edgefield County, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which

measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. The Code of Laws of South Carolina, 1976, as amended (the "Code") and particularly, Section 4-1-170 thereof, satisfies the conditions imposed by Article VIII, Section 13(D) of the South Carolina Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. **Location of the Park.**

(A) As of the original execution and delivery of this Agreement, the Park initially consists of property that is located in Aiken County and which is now or is anticipated to be owned and/or operated by Project Light (the "Company"), as more particularly described in Exhibit A (Aiken) hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within each county. The boundaries of the Park may be enlarged or diminished from time to time as authorized by unilateral ordinance of the county council of the County in which the property to be added to the Park is located. If any property proposed for inclusion in the Park is located, at the time such inclusion is proposed, within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A (Aiken) or a revised Exhibit B (Edgefield) which shall contain a legal description of the boundaries of the Park within Aiken County or Edgefield County, as the case may be, as enlarged or diminished, together with a copy of the ordinance of the county council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by the respective county council of an ordinance authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by such county council. Notice of such public hearing shall be published in a newspaper of general circulation in the respective county at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon the owner and, if applicable, the lessee of any property which would be excluded from the Park by virtue of the diminution.

4. **Fee in Lieu of Taxes.** Pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of *ad valorem* taxes) equivalent to the *ad valorem* taxes or other in-lieu-of payments that would have been due and payable but for the location of such property within the Park.

5. **Allocation of Expenses.** Aiken County and Edgefield County shall bear expenses incurred in connection with the Park, including, but not limited to, those incurred in the administration, development, operation, maintenance and promotion of the Park, in the following proportions:

If the property is located in the Aiken County portion of the Park:

- | | |
|---------------------|------|
| A. Aiken County | 100% |
| B. Edgefield County | 0% |

If the property is located in the Edgefield County portion of the Park:

- | | |
|---------------------|------|
| A. Aiken County | 0% |
| B. Edgefield County | 100% |

Notwithstanding anything herein to the contrary, to the extent that privately owned property is located in the Park, the owner of such property shall bear, exclusively, any expense associated with such property.

6. **Allocation of Revenues.** Aiken County and Edgefield County shall receive an allocation of all net revenues (after payment of all Park expenses and other deductions from Park revenue necessitated by projects located in the Park) generated by the Park through payment of fees in lieu of *ad valorem* taxes in the following proportions:

If the property is located in the Aiken County portion of the Park:

- | | |
|---------------------|-----|
| A. Aiken County | 99% |
| B. Edgefield County | 1% |

If the property is located in the Edgefield County portion of the Park:

- | | |
|---------------------|-----|
| A. Aiken County | 1% |
| B. Edgefield County | 99% |

With respect to such fees generated from properties located in the Aiken County portion of the Park, that portion of such fees allocated to Edgefield County shall thereafter be paid by the Treasurer of Aiken County to the Treasurer of Edgefield County in one payment by June 30 of the Aiken County fiscal year of receipt for distribution. With respect to such fees generated from properties located in the Edgefield County portion of the Park, that portion of such fees allocated to Aiken County shall thereafter be paid by the Treasurer of Edgefield County to the Treasurer of Aiken County in one payment by June 30 of the Edgefield County fiscal year of receipt for distribution.

7. **Revenue Allocation within Each County.**

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* taxes shall be distributed to Aiken County and to Edgefield County, as the case may be, according to the proportions established by **Section 6** of this Agreement. With respect to revenues allocable to Aiken County by way of fees in lieu of *ad valorem* taxes generated from properties within its own boundaries (the "Host County"), such revenues shall be distributed within the Host County in the manner provided in subsections (i) below; provided, that (a) each taxing entity which overlaps the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such revenue-producing portion, and (b) with respect to amounts received

in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity. The Host County is specifically authorized, in its sole discretion, to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the county council of the Host County.

(i) Aiken County

(a) Fees in lieu of *ad valorem* taxes generated from properties within Aiken County shall be utilized to make credits as may be required for Special Source Revenue Credits (“SSRC”), Infrastructure Credits or other statutorily permissible credits negotiated through Inducement Agreements and/or fee in lieu of *ad valorem* tax agreements as approved by Aiken County Council.

(b) After payment in Section 7(A)(i)(a) above, the appropriate percent of the remaining revenues received by the County on behalf of property located in the Park shall continue to be paid to Edgefield County as directed by Section 6 above.

(c) After payments made in accordance with Sections 7(A)(i)(a) and (b) above, the remaining revenues received (the “Net Revenues”) for the 2021 tax year and each tax year thereafter, shall be distributed by the Aiken County Treasurer as follows: (1) five percent (5%) of the Net Revenues shall be distributed to the Economic Development Partnership of Aiken and Edgefield Counties, Inc. (the economic development arm of the County); and (2) the remaining balance of the Net Revenues after payments set forth in (i)(a), (i)(b) and (i)(c) shall be distributed within Aiken County to the taxing entities general operating accounts within Aiken County, and no others, in the same ratio as each taxing entity would receive from the property located in a Park if the standard *ad valorem* tax were collected and distributed for general operating only.

(B) Revenues allocable to Aiken County by way of fees in lieu of *ad valorem* taxes generated from properties located in the Edgefield County portion of the Park shall be distributed solely to Aiken County. Revenues allocable to Edgefield County by way of fees in lieu of *ad valorem* taxes generated from properties located in the Aiken County portion of the Park shall be distributed solely to Edgefield County.

8. Fees in Lieu of *Ad Valorem* Taxes Pursuant to Title 4 or Title 12 of the Code.

It is hereby agreed that the entry by Aiken County into any one or more fee in lieu of *ad valorem* tax agreements pursuant to Title 4 or Title 12 of the Code or any successor or comparable statutes (“Negotiated Fee in Lieu of Tax Agreements”), with respect to property located within the Aiken County portion of the Park and the terms of such agreements shall be at the sole discretion of Aiken County. It is further agreed that entry by Edgefield County into any one or more Negotiated Fee in Lieu of Tax Agreements with respect to property located within the Edgefield County portion of the Park and the terms of such agreements shall be at the sole discretion of Edgefield County.

9. **Assessed Valuation.** For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Aiken County and Edgefield County and to each of the taxing entities within the participating counties shall be in accordance with the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to **Section 6** and **Section 7** of this Agreement.

10. **Applicable Ordinances and Regulations.** Any applicable ordinances and regulations of Aiken County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Aiken County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Edgefield County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Edgefield County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply.

11. **Law Enforcement Jurisdiction.** Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Aiken County is vested with the Sheriff's Office of Aiken County, for matters within their jurisdiction. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties located in Edgefield County is vested with the Sheriff's Office of Edgefield County, for matters within their jurisdiction. If any of the Park properties located in either Aiken County or Edgefield County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is also vested with the law enforcement officials of the municipality for matters within their jurisdiction.

12. **Emergency Services.** All emergency services in the Park shall be provided by those emergency service providers who provide the respective emergency services in that portion of the Host County.

13. **South Carolina Law Controlling.** 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.

14. **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.

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

16. **Term; Termination.** This Agreement shall extend for a term of thirty (30) years from the effective date of this Agreement, or such later date as shall be specified in any amendment hereto. Notwithstanding the foregoing provisions of this Agreement or any other provision in this

Agreement to the contrary, this Agreement shall not expire and may not be terminated to the extent that Aiken County or Edgefield County has outstanding contractual covenants, commitments or agreements to any owner or lessee of Park property, including, but not limited to the Company, to provide, or to facilitate the provision of, special source revenue credits, including, but not limited to, those set forth in that certain Fee in Lieu of Tax and Incentive Agreement by and between Aiken County and the Company, dated as of _____, 2021, or that certain Fee in Lieu of Tax and Incentive Agreement by and between Edgefield County and the Company, dated as of _____, 2021 as either may be amended, modified, or supplemented from time to time, or other incentives requiring inclusion of property of such owner or lessee within the boundaries of a joint county industrial or business park created pursuant to Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, unless the Host County (as defined in Section 7(A) hereof) shall first (i) obtain the written consent of such owner or lessee and, to the extent required (ii) include the property of such owner or lessee as part of another joint county industrial or business park created pursuant to Article III, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, which inclusion is effective immediately upon termination of this Agreement.

[End of Agreement – Execution Page to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and the year first above written.

AIKEN COUNTY, SOUTH CAROLINA

By: _____
Honorable Gary Bunker, Chairman, County Council
Aiken County, South Carolina

[SEAL]

Attest:

By: _____
Katelyn Hayes, Clerk to County Council
Aiken County, South Carolina

EDGEFIELD COUNTY, SOUTH CAROLINA

By: _____
Scott Cooper, Chairman, County Council
Edgefield County, South Carolina

[SEAL]

Attest:

By: _____
Taz Potts, Clerk to County Council
Edgefield County, South Carolina

Exhibit A (Aiken)

Aiken County Property

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Exhibit B (Edgefield)

Edgefield County Property

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