



Agenda
Sumter County Council
Regular Meeting
Tuesday, May 22, 2018 -- Held at 6:00 PM.
Sumter County Administration Building – County Council Chambers
Third Floor, 13 E. Canal Street, Sumter, SC

1. CALL TO ORDER:

- 1) Chairman Or Vice Chairman Of Sumter County Council

2. INVOCATION: Council Member, Staff, or Member of the Public

3. PLEDGE OF ALLEGIANCE:

4. APPROVAL OF AGENDA: May 22, 2018

5. APPROVAL OF MINUTES: Regular Meeting Held On

- 1) Regular Meeting Tuesday, May 8, 2018

6. LAND USE MATTERS AND REZONING REQUESTS:

- 1) None

7. OTHER PUBLIC HEARINGS:

- 1) **18-887 – Third Reading** -- An Ordinance Authorizing The Lease Of Property To FTC Communications, LLC. (Council Will Take Action On Third Reading Of This Ordinance Immediately After Public Hearing, Or During Old Business.)

- 2) **18-888 – Second Reading** -- An Ordinance To Provide For A Levy Of Taxes For County Purposes Of Sumter County, S. C., (Known As The Budget Ordinance) For The Fiscal Year Of Said County Beginning July 1, 2018, To Direct The Expenditures Of Said Taxes And Other Funds Of Said County, And To Provide For Other Matters Related Thereto. **(Council Will Take Action On Second Reading Of This Ordinance Immediately After Public Hearing, Or During Old Business.)**

8. NEW BUSINESS:

- 1) **18-889– First Reading** --An Ordinance Authorizing The Issuance And Sale Of General Obligation Bonds, Series 2018a, Or Such Other Appropriate Series Designation, In The Principal Amount Of Not Exceeding \$2,500,000; Fixing The Form And Details Of The Bonds; Authorizing The County Administrator To Prescribe Certain Details Relating To The Bonds; Providing For The Payment Of The Bonds And The Disposition Of The Proceeds Thereof; And Other Matters Relating Thereto.

- 2) It May Be Necessary To Hold An Executive Session To Discuss An Economic Development Matter Or A Personnel Matter, Receive A Legal Briefing, Discuss A Contractual Matter, Or Other Matter Pertaining To An Executive Session, And Take Appropriate Actions Thereafter If Required.

9. OLD BUSINESS:

- 1) **18-885-- Second Reading** – An Ordinance Authorizing (1) The Execution And Delivery Of A Fee In Lieu Of Tax And Incentive Agreement By And Between Sumter County, South Carolina (The “County”) And A Company Identified For The Time Being As Project Bulldog, Acting For Itself, One Or More Affiliates, And/Or Other Project Sponsors (Collectively, The “Company”), Pursuant To Which The County Shall Covenant To Accept Certain Negotiated Fees In Lieu Of Ad Valorem Taxes With Respect To The Establishment And/Or Expansion Of Certain Facilities In The County (The “Project”); (2) The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Company And The Project; (3) Certain Special Source Revenue Credits In Connection With The Project; And (4) Other Matters Relating Thereto.

- 2) **18-886 – Second Reading** –An Ordinance (1) Amending The Master Agreement Governing The Sumter-Lee Industrial Park Dated December 31, 2012 Between Lee County, South Carolina And Sumter County, South Carolina So As To Enlarge The Boundaries Of The Park To Include Certain Property Owned And/Or Operated By A Company Identified For The Time Being As Project Bulldog; And (2) Authorizing Other Matters Related Thereto.

- 3) **18-887 – Third Reading** -- An Ordinance Authorizing The Lease Of Property To FTC Communications, LLC. (Council Will Take Action On Third Reading Of This Ordinance Immediately After Public Hearing, Or During Old Business.)

- 4) **18-888 – Second Reading** -- An Ordinance To Provide For A Levy Of Taxes For County Purposes Of Sumter County, S. C., (Known As The Budget Ordinance) For The Fiscal Year Of Said County Beginning July 1, 2018, To Direct The Expenditures Of Said Taxes And Other Funds Of Said County, And To Provide For Other Matters Related Thereto. (Title Only)

10. COMMITTEE REPORTS:

- 1) **Fiscal Tax, and Property Meeting To Be Held On Tuesday, May 22, 2018, At 5:00 p.m.** In County Council’s Conference Room.

- 2) **County Council Budget Workshop/Special Meeting To Be Held On Tuesday, May 22, 2018, At 5:30 p.m.** In County Council’s Conference Room.

- 3) Report From Council Members On Other Meetings, Trainings, And/Or Conferences; And Any Other Council Comments.

11. MONTHLY REPORTS:

12. COUNTY ADMINISTRATOR’S REPORT:

13. PUBLIC COMMENT:

14. ADJOURNMENT:

In compliance with ADA/Section 504, Sumter County Is Prepared To Make Accommodations For Individuals Needing Assistance To Participate In Our Programs, Services, Or Activities.

Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda was posted on the bulletin board at the County Administrative Office, 13 East Canal Street, Sumter, SC and the Sumter County website www.sumtercountysc.org under Our Council Agenda/Minutes. In addition, the agenda electronically sent to newspapers, radio stations, television, and concerned citizens

ORDINANCE NO. 18-887

**AN ORDINANCE AUTHORIZING
THE LEASE OF PROPERTY TO FTC COMMUNICATIONS, LLC**

WHEREAS, Sumter County owns property at Patriot Park Sports Complex identified as TMS number 185-00-01-101; and

WHEREAS, part of that property is desired by FTC Communications, LLC for a wireless communication facility, including a tower; and

WHEREAS, Sumter County does not need the property for any public purpose; and

WHEREAS, it is in the public interest to allow FTC Communications, LLC to construct and maintain a wireless communication facility, including a tower upon the terms most favorable to Sumter County.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF SUMTER COUNTY, SOUTH CAROLINA, AT ITS REGULAR MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:

That Sumter County lease to FTC Communications, LLC the land referenced in the attached Lease Agreement, the terms of which are incorporated herein by reference.

The County Administrator is authorized to sign the Lease and a Memorandum of Lease on behalf of the County of Sumter.

**THE COUNTY COUNCIL FOR SUMTER COUNTY
SOUTH CAROLINA**

BY:

James T. McCain, Jr.

ITS: Chairman

ATTEST:

BY:

Mary W. Blanding

ITS: Clerk to County Council

First Reading: _____, 2018.

Second Reading: _____, 2018.

Notice of Public Hearing published in

The Item: _____, 2018.

Public Hearing Held: _____, 2018.

Third Reading and Adoption: _____, 2018.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER) PROBATE (As to County of Sumter)

PERSONALLY appeared before me, the undersigned witness, who being duly sworn, deposes and states that s/he saw the within named County of Sumter, by and through Gary M. Mixon, its County Administrator, sign, seal and as its act and deed, deliver the within written MEMORANDUM OF LEASE and that deponent, together with the undersigned Notary Public, witnessed the execution thereof.

SWORN to before me this _____
day of May, 2018.

(L.S.)
NOTARY PUBLIC FOR NORTH CAROLINA
My Commission Expires:

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG) PROBATE (As to FTC Communications, LLC)

PERSONALLY appeared before me, the undersigned witness, who being duly sworn, deposes and states that s/he saw the within named FTC Communications, LLC, by and through Guy Dent Adams, Jr., its Chief Operating Officer, sign, seal and as its act and deed, deliver the within written MEMORANDUM OF LEASE and that deponent, together with the undersigned Notary Public, witnessed the execution thereof.

SWORN to before me this _____
day of May, 2018.

(L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires:

BENCH MARK INFO:

DESIGNATION: CHERRY
PID: DE3142

ELEVATION
215.40'
NAVD88

NAD 83

LATITUDE 33° 56' 16.35432" NORTH
LONGITUDE 80° 28' 29.43327" WEST

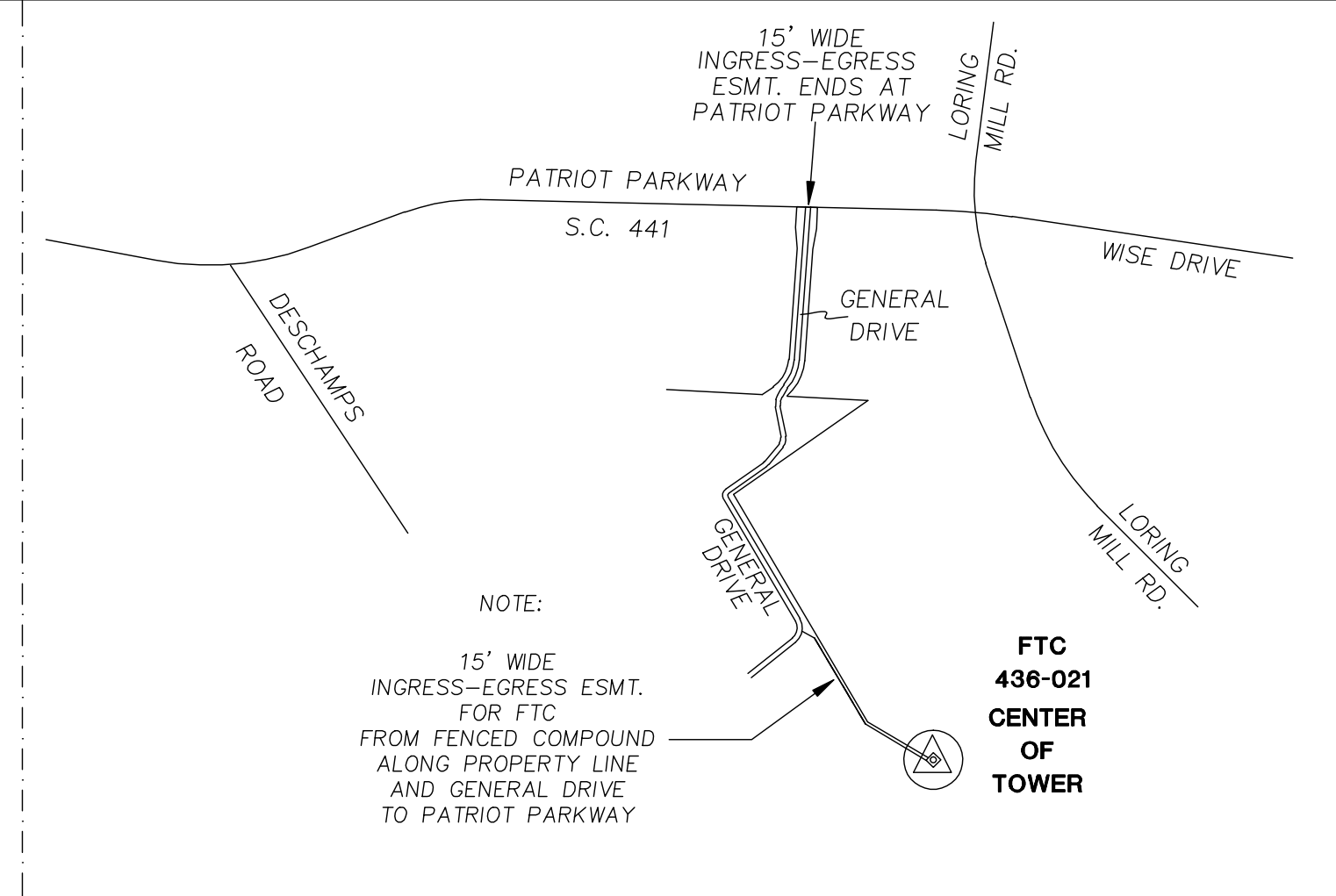
STATE PLANE
NORTH 766,104.97
EAST 2,159,259.11

FTC SITE: 436-021

100% FALL ZONE

DDC, LLC
PB 2008-264
TMS: 185-00-01-023

SUMTER COUNTY
TR. N PB 2005-194
TMS: 185-00-01-101



FTC SITE: 436-021

USGS DATA:
ELEVATIONS DETERMINED BY GPS OBSERVATIONS.
NATIONAL GEODETIC SURVEY MONUMENT USED:
PID: DE3142 DESIGNATION: CHERRY

HORIZONTAL CONTROL: NAD83 VERTICAL CONTROL: NAVD 88

CENTER OF TOWER

NAD 83
LAT: 33° 55' 48.2861" NORTH
LON: 80° 25' 28.0511" WEST

STATE PLANE
NORTH 763,348.06
EAST 2,174,549.73

ELEVATION
178.26
NAVD88

ERROR OF CLOSURE:
HORIZONTAL AND VERTICAL ACCURACY
IS GREATER THAN 1 FT. IN 10,000 FT.

NOTE:

15' WIDE INGRESS-EGRESS ESMT. FOR FTC FROM FENCED COMPOUND ALONG PROPERTY LINE AND GENERAL DRIVE TO PATRIOT PARKWAY

E: 2,174,549.73
N: 763,348.06
ELEV: 178.26

LAT: 33°55'48.2861"
LON: -80°25'28.0511"

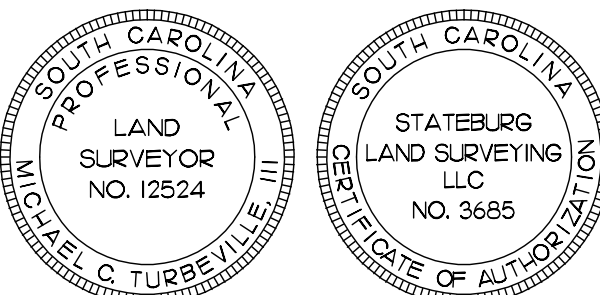
NEW CENTER OF TOWER
100% FALL ZONE

100% FALL ZONE
R = 200'

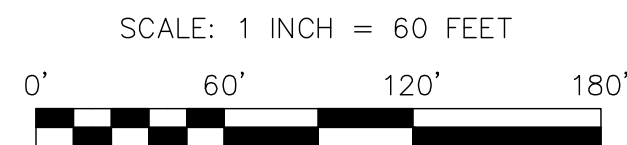
WETLANDS AS PER
PB 2005-194

SUMTER COUNTY
TRACT N PB 2005-194
TMS: 184-00-02-034

TMS: 185-00-01-101
TMS: 184-00-02-034



MICHAEL C. TURBEVILLE, III
STATEBURG LAND SURVEYING, LLC
1205 PEACH ORCHARD RD., SUMTER, SC 29154



I HEREBY CERTIFY THAT I HAVE CONSULTED THE FEMA FLOOD INSURANCE RATE MAP AND TO THE BEST OF MY KNOWLEDGE, BELIEF AND INFORMATION THE SUBJECT PROPERTY IS NOT IN A SPECIAL FLOOD HAZARD AREA.

COMMUNITY PANEL # 450184 0291 D DATED: FEB. 16, 2007

THIS SURVEY CONFORMS TO THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS EXCEPT AS SHOWN.

SOUTH CAROLINA	
SUMTER COUNTY	
CITY OF SUMTER	
TAX MAP:	184-00-02-034 part 185-00-01-101 part
DWG. M	DATE APRIL 27, 2017
BOOK DC	PROJECT 2017119

PLAT OF A PROPOSED TELEPHONE TOWER SITE
LOCATED APPROXIMATELY 2770 FT. SOUTH OF THE INTERSECTION OF
PATRIOT PARKWAY (S.C. HWY. 441) AND GENERAL DRIVE
THIS PROPERTY IS LOCATED ON TAX MAP PARCEL 185-00-01-101 AND 184-00-02-034

SURVEYED FOR:

FTC COMMUNICATIONS, LLC

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

LAND LEASE

This Land Lease is being entered into by and between FTC Communications, LLC, hereinafter referred to as “Lessee” and the County of Sumter, hereinafter referred to as “Lessor”.

WHEREAS, Lessor is a body politic and a political subdivision of the State of South Carolina and holds fee simple marketable title free and clear of all liens and encumbrances to the real property herein leased and on which Lessee intends to construct certain improvements and to the real property over which Lessee is granted an easement for ingress and egress thereto and the parties hereto have agreed to enter into this lease on the following terms and conditions.

1. LEASE SPACE AND PREMISES: Lessor shall lease, and hereby leases, to Lessee all that piece, parcel or lot of land as depicted on Exhibit “A” hereto attached (“Leased Space”). The Leased Space will be utilized to construct, support and operate a wireless communications facility, including a tower, equipment and ancillary structures (“Structures”) and for any other purpose consistent therewith. Lessor further grants an appurtenant easement to Lessee (i) in, over and across the property adjoining the Leased Space within the Fall Zone of the tower and all anchors (Premises) for purposes of anchoring, mounting and replacing the guy wires, if any, extending from the tower, and (ii) in, over and across that portion of the Premises lying within twenty (20') feet of each guy wire anchor for purposes of maintaining and repairing such wires together with the right to clear all trees, undergrowth and other obstructions which may interfere with or fall upon Lessee’s tower or any guy anchors and wires or other improvements.

2. TERM: The initial term of this lease shall be for ten (10) years commencing March 1, 2018, and shall automatically renew for up to one (1) additional term of ten (10) years unless Lessee notifies Lessor of its intention not to renew prior to the commencement of the succeeding

renewal term. The initial term and successive renewal term shall be referred to herein as the “Term.”

3. RENT: The base rent for the Term shall be \$400.00 per month payable in advance. Beginning with the thirteenth monthly rent payment, the base monthly rental fee will be increased by two (2%) percent to \$408.00 per month with a two (2%) percent increase adjustment implemented each year thereafter throughout the initial term and any renewal term if not otherwise terminated by Lessee (i.e. 25th and subsequent rent payments will be in the amount of \$416.16 for 12 months; 37th and subsequent rent payments will be \$424.49 for 12 months; 49th and subsequent rent payments will be \$432.98 for 12 months, etc.).

4. EASEMENTS: In the event the premises do not adjoin a public right-of-way, Lessor hereby grants to Lessee an easement for ingress, egress and regress over the Premises adjacent to the Leased Space as shown on Exhibit “A” for access and/or construction, operation and maintenance of Structures on the Leased Space and for installation, construction, operation and maintenance of underground and aboveground telephone, telegraph and power lines, in connection with the use of the Leased Space. The location and configuration of the easement will be agreed upon by the parties. The Lessors guaranty access notwithstanding the interest of any and all mortgagees and bind themselves, their heirs and assigns to provide access as shown on Exhibit “A”.

5. USE AND ENJOYMENT: Lessor represents and covenants that Lessor owns the Leased Space and Premises in fee simple terms, free and clear of all liens, encumbrances and restrictions of every kind and nature and does warrant that there are no matters affecting title that would prohibit, restrict or impair the leasing of the Leased Space or use or occupancy thereof in accordance with the terms and conditions of the

lease. Lessor represents and warrants to Lessee that Lessor has full right to make this lease and that Lessee will have quiet and peaceable possession of the Leased Space throughout the term.

6. SECURITY INTEREST/MORTGAGE: Lessee may from time to time grant certain lenders selected by Lessee and its affiliates (“Lenders”) a lien on and security interest in all assets and personal property of Lessee located on the Leased Space, including but not limited to all accounts receivable, inventory, goods, machinery and equipment owned by Lessee (“Personal Property”) as collateral security for the repayment of any indebtedness to the Lenders. Lenders may in connection with any foreclosure or other similar action, enter upon Leased Space in order to secure and/or take possession of such property provided, however, that (i) rent is paid for Lessor during occupancy by or on behalf of Lenders for any purpose, (ii) the Lender pays for any damage caused by Lenders or their representatives in removing the Personal Property from the Leased Space, and (iii) the Lenders otherwise comply with the terms of this agreement. Lessor hereby agrees to subordinate any claim and/or right of levy or distraint for rent with respect to the Personal Property to any Lender.

7. ASSIGNMENTS AND SUBLEASING: Lessee may sublet all or any part of the Leased Space or may assign or transfer this lease in whole or in part without Lessor’s consent.

8. NOTICES: All notices will be in writing signed by the notifying party or its designee and will be deemed to have been effective upon delivery if served personally or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested and addressed as follows:

To Lessor: County of Sumter
c/o Gary Mixon
13 E. Canal St.
Sumter, SC 29150

To Lessee: FTC Communications, LLC
ATTN: Guy Dent Adams, Jr.
P.O. Box 588
Kingstree, SC 29556

9. LESSEE IMPROVEMENTS: Lessee has the right, at its sole expense, to make the improvements necessary for the construction and operation of the tower, and other Structures. All improvements placed on the leased Premises by the Lessee shall remain the property of the Lessee and Lessor grants Lessee such additional time as may be necessary to recover and remove such Personal Property upon termination of this lease.

10. TAXES: Lessee will pay any personal property taxes assessed on, or any portion of the taxes attributable to the Structures. Lessor will pay when due all real property taxes and all other fees and assessments attributable to the Leased Space. However, Lessee will pay, as additional rent, any increase in real property taxes levied against the Leased Space which is directly attributable to Lessee's use of Leased Space, and Lessor agrees to furnish proof of the increase to Lessee.

11. EXCLUSIVITY: Lessor will not enter into a lease or license agreement, nor assign or sell this agreement to or with another party, during the term hereof.

12. ACCESS: Lessee shall have at all times during the term the right of access to and from the Leased Space and all utility installation servicing the Leased Space on a twenty four

hours per day seven days per week basis for the installation and maintenance of utility wires, cables, conduits and pipes over, under and along the right of way.

13. RIGHT OF FIRST REFUSAL: If at any time during the term of this lease, Lessor receives a bonafide written offer to sell, assign or otherwise transfer its interest in the Leased Space and/or Premises which Lessor desires to accept, Lessor shall first give Lessee written notice (including a copy of the proposed contract) of such offer prior to becoming obligated. Lessee shall have a period of thirty (30) days after receipt of Lessor's notice and terms to accept the offer and exercise its right of first refusal by notifying Lessor in writing. After thirty (30) days, the offer will be deemed rejected.

14. TERMINATION BY LESSEE: Prior to construction of any improvements, Lessee can terminate this lease by written notice of termination given to Lessor. Lessee is under no obligation to undertake or commence construction provided that in the event Lessor obtains a bonafide offer to rent or sell the premises, Lessor can require Lessee to either begin payment of rent as though construction of improvements had began or terminate said lease, thereby releasing and waiving all rights conveyed to Lessee hereunder.

15. BINDING EFFECT: The covenants and conditions contained herein will apply to and bind the heirs, successors, executors, administrators, and assigns of the parties hereto. This lease will run with the land and all subsequent purchases will be subject to the terms and conditions specified herein.

16. DEFAULT: The failure of a party to perform its obligations hereunder shall *inter alia*, entitle the aggrieved party to recover reasonable attorney's fees incurred in enforcing any provision of this lease and/or recovering any damages related thereto.

17. ENTIRE AGREEMENT: All of the representations and obligations of the parties are contained herein, and no modifications, waiver, or amendment of this lease or any of its conditions or provisions will be binding unless in writing signed by the parties.

18. This Lease Agreement was approved by three readings and a public hearing for Sumter County Ordinance 18-887.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of May, 2018.

IN THE PRESENCE OF:

LESSEE:

FTC Communications, LLC
By: Guy Dent Adams, Jr.
Its: Chief Operating Officer

LESSOR:

Sumter County
By: Gary M. Mixon
Its: County Administrator

ORDINANCE NO. 18-888

An Ordinance To Provide For A Levy Of Taxes For County Purposes Of Sumter County, S. C., (Known As The Budget Ordinance) For The Fiscal Year Of Said County Beginning July 1, 2018, To Direct The Expenditures Of Said Taxes And Other Funds Of Said County, And To Provide For Other Matters Related Thereto.

BE IT ORDAINED by the County Council of Sumter County (the County), South Carolina, in council duly assembled:

WHEREAS, the County Council (Council) for Sumter County, South Carolina (the County) has estimated that for the County's fiscal year beginning July 1, 2018, that the aggregate amount of all anticipated funds, moneys and revenues (funds) available to the County from all sources except ad valorem taxes for the County's General Fund for the fiscal year beginning July 1, 2018, as set forth on the annexed **Exhibit A**, Fiscal Year 2018-2019 Projected Revenue Summary, (which is attached hereto and made a part hereof by reference) will be approximately \$28,438,230.

WHEREAS, Council finds that it is necessary that the additional funds needed to provide for the expenditures appropriated herein should and must be raised from the imposition of ad valorem taxes; and

WHEREAS, Council further finds, based on the estimated value of the millage imposed herein, that, in order to provide for the expenditures hereinafter appropriated, the millages hereinafter established should be and hereinafter are established and applied for the purposes hereinafter set forth; and

WHEREAS; Council further finds that the expenditures for the appropriations hereinafter made are all necessary, are all in the best interest of the citizens of the County, and are all for proper public and corporate purposes of the County.

NOW, THEREFORE, the following ordinance is hereby adopted:

Section I. For purposes of this ordinance and for purposes of the records of the County related to the levying of taxes and the expenditure of funds by the County for the County's fiscal year beginning July 1, 2018, and ending June 30, 2019, the following definitions shall apply:

Tax District #1 - that portion of Sumter County in Fire District 1.

Tax District #2 - that portion of Sumter County in Fire District 2.

Tax District #17 - that portion of Sumter County within the corporate limits of the City of Sumter.

Tax District #18 – that portion of Sumter County in Fire District 2 within the corporate limits of the Town of Mayesville.

Tax District #27 – that portion of Sumter County in Fire District 2 within the corporate limits of the Town of Pinewood.

Tax District #717 – The Tax Increment Financing District within the corporate limits of the City of Sumter.

Section II. The following amounts are hereby appropriated for operating expenditures of the County's General Fund for the fiscal year beginning July 1, 2018, and ending June 30, 2019, for the purposes indicated:

County Operations:	
General Government Administration	\$16,070,246
Public Safety	20,791,134
Transportation	794,314
Health and Human Services	5,056,703
Recreation	4,107,398
Appropriations for other agencies – Exhibit C	2,872,629
Other general expenditures	3,060,059
Total General Fund Appropriations	52,752,483

Section III. Provided, however, notwithstanding anything set forth in Section II or any other provisions of this ordinance to the contrary, the County Administrator of Sumter County should have the authority to add to or reduce from any appropriations made in this ordinance for County Operations amounts not in excess of \$10,000 or 10% of any appropriations made in this ordinance, whichever is the lesser, provided any such additions to any appropriations shall be taken out of one or more appropriations that have been reduced by the County Administrator within the guidelines of this proviso prior to expenditure thereof.

Section IV. The above appropriations shall be kept separate and expended for the purposes for which each was appropriated. Except as otherwise specifically provided herein, there shall not be expended or contracted to expend any sum greater than the amount appropriated except with the approval of a majority of the County Council for the County (County Council) and no account against the County shall be approved or paid except an expenditure authorized by this ordinance or further action of County Council.

Section V. The exact amounts the County is required to expend for the following items are set by state law, to-wit: jury pay and court expenses - Clerk of Court; Coroner's juries, inquests, etc.; per diem - Tax Assessor's and appeals board; advertising tax sales, bids, notices, etc.; officials and employees' bond premiums; workers' compensation benefits and/or premiums; state retirement - county's share; social security - county's share; unemployment compensation; legal expenses for the defense of indigent; and other legal expenses. The amounts herein appropriated for the items enumerated in this section are based on estimated requirements, but may, in fact, vary in accordance with the requirements of state law. Accordingly, notwithstanding anything contained in this ordinance to the contrary, payment of the items enumerated in this section as from time to time required by state law is authorized even if the amount thereof should exceed the estimated amount hereof appropriated in this ordinance for any such item.

Section VI. The amounts of the salaries of the following officials by this ordinance for the fiscal year for said County beginning July 1, 2018, shall be as follows, which amount shall be paid out of and deducted from the appropriations made for their respective offices to wit:

Sheriff	
Clerk of Court	
Judge of Probate	
Coroner	

In addition to their county salaries, the salaries of the following County officials are provided a cost-of-living increase beginning at the first pay period of January after a General Election, as budgeted for other County Employees and a one-time salary adjustment of 3%.

Chairman, Sumter County Council	
Vice Chairman, Sumter County Council	
Member, Sumter County Council (\$73,915 = \$14,783 x 5 members)	

That, in addition to state salaries, the salaries of the following County officials are supplemented by the County as follows:

Auditor	
Treasurer/Tax Collector	

The amounts herein provided for the salaries or supplements to the salaries of the officials mentioned in this section shall be in lieu of all fees collected by these officials and the amounts herein provided shall be the

salaries or supplements to the salaries of such officials for all their services for the fiscal year of the County commencing July 1, 2018. However, said salaries as set out in this section are exclusive of any supplements thereto paid to any of said officials by the State of South Carolina and said officials are hereby authorized to accept any such supplements to their salaries. Any such supplements received by the County on behalf of a respective official shall be paid over by the County to the applicable official.

Section VII. Salaries provided herein for the Sheriff, the Clerk of Court, the Judge of Probate, the Coroner, the Auditor, and the Treasurer/Tax Collector are appropriated for the present holders of the aforesaid offices and in the event vacancies occur in any of these offices, the beginning salaries and appropriations therefore shall be determined by the County Council.

Section VIII. That the positions of the various County employees set forth on the annexed **Exhibit B**, Position Control, (which is attached hereto and made a part hereof by reference) are hereby ratified, approved, and authorized in order to carry out the functions of the County. The County Administrator is authorized to fill these positions with such employees as the County Administrator deems in the best interest of the County consistent with applicable laws, ordinances, regulations, and policies. The County Administrator is not required to fill any position that is or becomes vacant where the County Administrator deems it in the best interest of the County that said position be vacant. Except as otherwise provided in this section and except also as County Council might from time to time by resolution otherwise direct, the County Administrator is authorized, from time to time, to assign, amend, and vary the duties and responsibilities of County employees, to increase or decrease salaries applicable to a respective position, move County employees from one position with the County to another position with the County (either within a department or to another department), and to combine one or more positions or portions thereof into a single position. The County Administrator is authorized to change the title of the position of a County employee unless the change will require an increase in expenditures in excess of those available and budgeted. Provided, nothing in this section shall authorize the expenditure of any county funds except for the purposes authorized in this ordinance. Provided further, the County Administrator shall not, without authorization granted by resolution of County Council, create any new position nor increase the total number of County employees from the total number of regular, full time positions herein approved. Notwithstanding anything in this section to the contrary, the County Administrator is authorized to employ

additional persons for temporary contract labor for a period not to exceed six (6) months per person in any one fiscal year.

Section IX. *The Sumter County Personnel Handbook has not changed since July 1, 2016. The version adopted in the 2016-2017 budget ordinance is re-adopted for the fiscal year 2018 – 2019.*

Section X. No magistrate in the County shall receive a salary unless and until such magistrate shall have first filed a monthly statement with the County Treasurer to be submitted to the County Council showing all cases handled during the past month and the disposition thereof and certifying that all fines due to the County shall have been paid to the County Treasurer.

Section XI. . The Auditor is authorized and directed to levy such millage upon all taxable property within the County as necessary to provide funds required to meet the appropriation made in this ordinance for County purposes and to retire, according to the respective schedules for repayment, the general obligation bonds of the County.

Section XII. In addition to funds normally received and to ad valorem taxes imposed for other purposes, the Auditor of Sumter County (the Auditor) is hereby authorized and directed to make the following levies on all taxable property within the areas specified:

1. Within the entire County, 84.4 mills for general countywide purposes and 15 mills for general obligation bond purposes;
2. Within Fire District 1, 28.9 mills for fire protection;
3. Within Fire District 2, 17.3 mills for fire protection;
4. Capital Improvement Fund, 1 mill;
5. Central Carolina Technical College, 4.5 mills;
6. USC – Sumter, 2.0 mills;
7. General Fund Legislative Mandates 1.6 mills;
8. Solid Waste Disposal 4.0 mills;
9. Solid Waste Disposal Unfunded Legislative Mandates, 0.7 mills

Expenditures by the County for the purposes specified above out of the funds so raised and those other funds remitted to the County by State agencies, raised by other ordinances of the County, and obtained by the County from all other sources are hereby authorized.

Section XIII. The County Tax Assessor shall furnish to the County Auditor the assessed values on all property within the County on or before June 30, 2019.

Section XIV. The Auditor shall deliver the tax books to the County Treasurer not later than September 15, 2018. The Auditor is authorized to use the same millage as was used for the County's prior fiscal year unless notified in writing on or before July 15, 2018, of a change in estimated millage values.

Section XV. Administrative Fees -- Sumter County shall collect for the administration and collection of municipal taxes for the City of Sumter, Pinewood, and Mayesville. The Administrative Fees shall \$1.92 per transaction for the City of Sumter, the Town of Pinewood, and for the Town of Mayesville respectively.

Section XVI. No additional levy for school purposes shall be made in any district unless approved by a majority of the County Council.

Section XVII. All boards and commissions receiving funds from the County shall send to County Council a copy of the minutes of each meeting within thirty (30) days thereof and shall annually submit financial reports to the County Council.

Section XVIII. No funds appropriated herein shall be used for payment of expenditures or obligations of the County or any agency or office thereof incurred prior to the effective date of this ordinance except for retirement of general obligation bonds and payment on lease purchase agreements that come due after the effective date of this ordinance. Notwithstanding the foregoing, any line items previously appropriated and/or properly encumbered as of June 30, 2018 shall be carried forward as an appropriation of fiscal year 2018-2019.

Section XIX. Through the adoption of this ordinance County Council hereby approves the budgets of all other special revenue, debt service, and capital project funds, submitted herewith as "other funds" as **Exhibit D**.

Section XX. Twenty (20%) percent of the revenue from all property in any multi-county park in Sumter County will be allocated to the Infrastructure Fund for Fiscal Year 2018-2019. The remaining eighty percent of the revenue from all property in any multi-county park in Sumter County shall be allocated among the applicable

taxing districts on a pro-rata basis using the mills for each taxing district for fiscal year 2017-2018 to determine the ratio for distribution.

Section XXI. The Solid Waste Disposal Fee for 2018-2019 charged to each residential unit shall be \$47.76. The tipping fee for 2018–2019 charged to commercial waste haulers who use the Sumter County transfer station shall be \$44.51 per ton.

Section XXII. County Council hereby approves appropriating \$1,500,000 from General Fund Balance for the EMS building conversion, old Detention Center demolition, and Training Center/Sheriff parking improvements.

Section XXIII. This ordinance shall take effect on the 1st day of July 2018.

COUNTY COUNCIL FOR SUMTER COUNTY, S. C.

(SEAL)



Chairman – James T. McCain, Jr.

Attest By Its Clerk – Mary W. Blanding

First Reading: May 8, 2018

Second Reading: May 22, 2017

Public Hearing Held: May 22, 2017

Third Reading and Adoption: June 12, 2017

Sumter School District Resolution: _____, 2017

ORDINANCE NO. 18-889

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2018A, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$2,500,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR TO PRESCRIBE CERTAIN DETAILS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE COUNTY COUNCIL OF SUMTER COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION 1. Findings and Determinations. The County Council (the “County Council”), of Sumter County, South Carolina (the “County”), hereby finds and determines:

(a) Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended (the “S.C. Code”), and the results of a referendum held in accordance therewith, the Council-Administrator form of government was adopted and the County Council constitutes the governing body of the County.

(b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the “Constitution”), provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law. Such debt must be incurred for a public purpose and a corporate purpose in an amount not exceeding eight percent (8%) of the assessed value of all taxable property of such county.

(c) Pursuant to Title 4, Chapter 15 of the S.C. Code (the same being and hereinafter referred to as the “County Bond Act”), the governing bodies of the several counties of the State of South Carolina (the “State”) may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not exceeding its applicable constitutional limit.

(d) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the S.C. Code provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(e) Pursuant to Ordinance No. 12-772 adopted by County Council on August 14, 2012, the County has adopted Written Procedures related to Tax-Exempt Debt.

(f) The assessed value of all the taxable property in the County as of June 30, 2017, is \$311,423,780. Eight percent (8%) of the assessed value is \$24,913,902. As of the date hereof, the outstanding general obligation debt of the County subject to the limitation imposed by Article X, Section 14(7) of the Constitution is \$10,359,000. Thus, the County may incur not exceeding \$14,554,902 of additional general obligation debt within its applicable debt limitation.

(g) It is necessary and in the best interest of the County for the County Council to provide for the issuance and sale of general obligation bonds in an amount of not exceeding \$2,500,000, the proceeds of which will be used for: (i) funding capital projects (the "Projects"); (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other lawful purposes as the Council shall determine.

SECTION 2. Authorization and Details of Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not exceeding \$2,500,000 aggregate principal amount of general obligation bonds (the "Bonds") of the County, for the purpose set forth in Section 1(g) and other costs incidental thereto, including without limiting the generality of such other costs, engineering, financial and legal fees.

The Bonds shall be issued as fully registered bonds registrable as to principal and interest; shall be dated their date of delivery to the initial purchaser(s) thereof; shall be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing each year; shall be subject to redemption if such provision is in the best interest of the County; shall be numbered from R-1 upward; shall bear interest from their date payable at such times as hereinafter designated by the County Administrator and/or his lawfully-authorized designee at such rate or rates as may be determined at the time of the sale thereof; and shall mature serially in successive annual installments as determined by the County Administrator and/or his lawfully-authorized designee.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. Without further authorization, the County Council hereby delegates to the County Administrator and/or his lawfully-authorized designee the authority to determine: (a) the par amount of the Bonds; (b) the maturity dates of the Bonds and the respective principal amounts maturing on such dates; (c) the interest payment dates of the Bonds; (d) redemption provisions, if any, for the Bonds; (e) the date and time of sale of the Bonds; (f) whether the Bonds will be publicly traded or placed with a bank; (g) the authority to receive bids on behalf of the County Council and to award the sale of the Bonds in accordance with the terms of the Notice of Sale or Request for Proposals for the Bonds.

After the sale of the Bonds, the County Administrator and/or his lawfully-authorized designee shall submit a written report to County Council setting forth the details of the Bonds as set forth in this paragraph.

SECTION 4. Registration, Transfer and Exchange of Bonds. The County shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee a new fully registered Bond or Bonds, of the same aggregate principal amount, interest rate, and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name any fully registered Bond shall be registered upon the registry books as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obliged to make any such transfer of Bonds during the fifteen (15) days preceding an interest payment date on such Bonds.

SECTION 5. Record Date. The County hereby establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the giving of notice of redemption of bonds.

SECTION 6. Mutilation, Loss, Theft or Destruction of Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the County and the Registrar evidence or proof satisfactory to the County and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in an amount as may be required by the laws of the State or such greater amount as may be required by the County and the Registrar. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 7. Execution of Bonds. The Bonds shall be executed in the name of the County with the manual or facsimile signature of the Chair of the County Council attested by the manual or facsimile signature of the Clerk to the County Council under the seal of the County impressed, imprinted or reproduced thereon; provided, however, the facsimile signatures appearing on the Bonds may be those of the officers who are not in office on the date of enactment of this Ordinance. The execution of the Bonds in such fashion shall be valid and effectual, notwithstanding any subsequent change in such offices. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar in substantially the form set forth herein.

SECTION 8. Form of Bonds. The Bonds and the certificate of authentication shall be in substantially the form set forth in Exhibit A attached hereto.

SECTION 9. Security for Bonds. The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the County Auditor and collected by the County Treasurer, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

The County Council shall give the County Auditor and County Treasurer written notice of the delivery of and payment for the Bonds and they are hereby directed to levy and collect annually, on all taxable property in the County, a tax, without limit, sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

SECTION 10. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this Ordinance, such notice in substantially the form attached hereto as Exhibit B, having been published in *The Item*, a newspaper of general circulation in the County, not less than 15 days prior to the date of such public hearing.

SECTION 11. Initiative and Referendum. The County Council hereby delegates to the County Administrator and/or his lawfully-authorized designee the authority to determine whether the Notice prescribed under the provisions of Section 5 of Title 11, Chapter 27 of the S.C. Code relating to the initiative and referendum provisions contained in Title 4, Chapter 9, Article 13 of the S.C. Code shall be given with respect to this Ordinance. If said Notice is given, the County Administrator and/or his lawfully-authorized designee are authorized to cause such Notice to be published in a newspaper of general circulation in the County, in substantially the form attached hereto as Exhibit C.

SECTION 12. Exemption from State Taxes. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the S.C. Code from all State, county, municipal, County and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 13. Reimbursement of Certain Expenditures. This Ordinance shall constitute the County's declaration of official intent pursuant to Regulation §1.150-2 of the Internal Code of 1986, as amended (the "Code") to reimburse the County from a portion of the proceeds of the Bonds for expenditures it anticipates incurring (the "Expenditures") with respect to the Project prior to the issuance of the Bonds. The Expenditures which are reimbursed are limited to Expenditures which are: (a) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Regulation §1.150-2 of the Code) under general federal income tax principals; or (2) certain de minimis or preliminary Expenditures satisfying the requirements of Regulation §1.150-2(f) of the Code. The source of funds for the Expenditures with respect to the Project will be the County's reserve funds or other legally available funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such projects were placed in service, but in no event more than three (3) years after the original Expenditures.

SECTION 14. Tax Covenants. The County hereby covenants and agrees with the holders of the Bonds that it will not take any action which will, or fail to take any action which failure will, cause

interest on the Bonds to become includable in the gross income of the holders of the Bonds for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Bonds. The County further covenants and agrees with the holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds would have caused the Bonds to be “arbitrage bonds,” as defined in Section 148 of the Code, and to that end the County hereby shall:

(a) comply with the applicable provisions of Sections 103 and 141 through 150 of the Code and any regulations promulgated thereunder so long as the Bonds are outstanding;

(b) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and

(c) make such reports of such information at the time and places required by the Code.

SECTION 15. Book-Entry System. The Bonds initially issued (the “Initial Bonds”) will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York (“DTC”), and transfers of beneficial ownership of the Initial Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of Bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the County, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties, the County shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute and deliver to the successor securities depository Bonds of the same principal amount, interest rate, and maturity registered in the name of such successor.

If the County is unable to retain a qualified successor to DTC or the County has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Bonds by mailing an appropriate notice to DTC, upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute, authenticate and deliver to the DTC participants Bonds in fully-registered form, in substantially the form set forth in Section 8 of this Ordinance in the denomination of \$5,000 or any integral multiple thereof.

Notwithstanding the foregoing, at the request of the purchaser, the Bonds will be issued as one single fully-registered bond and not issued through the book-entry system.

SECTION 16. Sale of Bonds, Form of Notice of Sale. The Bonds shall be offered for public sale on the date and at the time designated by the County Administrator and/or his lawfully-authorized designee. A Notice of Sale in substantially the form set forth as Exhibit D attached hereto shall be distributed to prospective bidders and a summary of such Notice of Sale shall be published in a newspaper of general circulation in the State and/or in a financial publication published in the City of New York not less than seven (7) days prior to the date set for such sale.

SECTION 17. Preliminary and Final Official Statement. The County Council hereby authorizes and directs the County Administrator and/or his lawfully-authorized designee to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The County Council authorizes the County Administrator and/or his lawfully-authorized designee to designate the Preliminary Official Statement as “final” for purposes of Rule 15c2-12 of the Securities Exchange Commission. The County Administrator and/or his lawfully-authorized designee are further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchaser of the Bonds.

SECTION 18. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual financial report of the County within thirty (30) days from the County’s receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which adversely affects more than five (5%) percent of the revenues of the County or the County’s tax base.

SECTION 19. Continuing Disclosure. In compliance with the Securities and Exchange Commission Rule 15c2-12 (the “Rule”) the County covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver prior to closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form appearing as Exhibit E attached to this Ordinance. In the event of a failure of the County to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by this Ordinance.

SECTION 20. Bank Placement. In the event the Bonds are sold to a bank pursuant to Section 16 above, the requirements of Sections 15, 17 and 19 hereof shall not be applicable, and the County may serve as Registrar/Paying Agent as described in Section 4 hereof. Also, forms of the attachments to this Ordinance will be revised as necessary and appropriate.

SECTION 21. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the County Treasurer in a special fund and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds.

SECTION 22. Defeasance. The obligations of the County under this Ordinance and the pledges, covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

(a) such Bond or Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent and is canceled or subject to cancellation by the County or the Paying Agent; or

(b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with a corporate trustee in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations (hereinafter defined) maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the Paying Agent. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

“Government Obligations” shall mean any of the following:

- (i) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America;
- (ii) non-callable, U. S. Treasury Securities - State and Local Government Series (“SLGS”);
- (iii) general obligation bonds of the State, its institutions, agencies, counties and political subdivisions which, at the time of purchase, carry a AAA rating from Standard & Poor’s or a Aaa rating from Moody’s Investors Service; and
- (iv) a defeasance obligation as defined in Section 6-5-10 of the S.C. Code as such as may be amended from time to time.

(c) Such Bond or Bonds shall be defeased as provided in Section 11-14-110 of the S.C. Code as such may be amended from time to time.

SECTION 23. Miscellaneous. The County Council hereby authorizes the Chair of the County Council, the Clerk to the County Council, County Administrator, and County Attorney to execute such documents and instruments as necessary to effect the issuance of the Bonds. The County Council hereby retains McNair Law Firm, P.A., as Bond Counsel and Compass Municipal Advisors, LLC, as Financial Advisor in connection with the issuance of the Bonds. The County Administrator is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

All rules, regulations, Ordinances, and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bonds are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its adoption.

Enacted this ____ day of June, 2018.

SUMTER COUNTY, SOUTH CAROLINA

By: _____
Chair, County Council

(SEAL)

ATTEST:

Clerk to County Council

Date of First Reading:	May 22, 2018
Publication of Notice of Public Hearing:	
Date of Second Reading:	May 29, 2018
Date of Public Hearing:	June 12, 2018
Date of Third Reading:	June 12, 2018

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
SUMTER COUNTY
GENERAL OBLIGATION BOND, SERIES 2018A

No. R-

INTEREST	MATURITY	ORIGINAL	
<u>RATE</u>	<u>DATE</u>	<u>ISSUE DATE</u>	<u>CUSIP</u>

REGISTERED HOLDER:

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that Sumter County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to the registered holder specified above, or registered assigns, the principal amount specified above on the maturity date specified above, upon presentation and surrender of this Bond at the principal office of _____, in the City of _____, State of _____ (the "Paying Agent"), and to pay interest on such principal amount from the date hereof at the rate per annum specified above until this Bond matures. Interest on this Bond is payable _____ 1, 20____, and semiannually on _____ 1 and _____ 1 of each year thereafter, until this Bond matures, and shall be payable by check or draft mailed to the person in whose name this Bond is registered on the registration books of the County maintained by the registrar, presently _____, in _____, _____ (the "Registrar"), at the close of business on the fifteenth (15th) day of the calendar month preceding each semiannual interest payment date. The principal of and interest on this Bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, that interest on this fully registered Bond shall be paid by check or draft as set forth above.

This Bond shall not be entitled to any benefit under the Ordinance (hereafter defined), nor become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been duly executed by the Registrar.

For the payment hereof, both principal and interest, as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are irrevocably pledged and there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

This Bond is one of a series of Bonds of like date of original issue, tenor and effect, except as to number, denomination, date of maturity, redemption provisions, and rate of interest, aggregating _____ Dollars (\$ _____), issued pursuant to and in accordance with Article X of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"); Title 4, Chapter 15, Code of Laws of South Carolina 1976, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended; and Ordinance No. 18-889 duly enacted by the County Council on _____, 2018.

[Redemption Provisions]

This Bond is transferable as provided in the Ordinance, only upon the books of the County kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney. Thereupon a new fully registered Bond or Bonds of the same aggregate principal amount, interest rate redemption provisions, if any, and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance. The County, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina (the "State"), this Bond and the interest hereon are exempt from all State, county, municipal, County and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State; and that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as the same shall respectively mature and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, SUMTER COUNTY, SOUTH CAROLINA, has caused this Bond to be signed with the manual or facsimile signature of the Chair of the County Council, attested by the manual or facsimile signature of the Clerk to the County Council and the seal of the County impressed, imprinted, or reproduced hereon.

SUMTER COUNTY, SOUTH CAROLINA

Chair, County Council

(SEAL)

ATTEST:

Clerk, County Council

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

This bond is one of the Bonds described in the within mentioned Ordinance of Sumter County, South Carolina.

_____ as Registrar

By: _____ Authorized Officer

The following abbreviations, when used in the inscription on the face of this Bond shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - As tenants in common

UNIF GIFT MIN. ACT

TEN ENT - As tenants by the entireties

_____ Custodian _____
(Cust.) (Minor)

JT TEN - As joint tenants with right of survivorship and not as tenants in common

under Uniform Gifts to Minors

_____ (State)

Additional abbreviations may also be used though not in list above.

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

_____ (Name and address of Transferee)

the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

(Authorizing Officer)

Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agents Medallion Program ("STAMP") or similar program.

NOTICE: The signature to this agreement this agreement must correspond with the name of the registered holder as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

A copy of the final approving opinion to be rendered shall be attached to each Bond and preceding the same a certificate shall appear, which shall be signed on behalf of the County with a manual or facsimile signature of the Clerk to the County Council. The certificate shall be in substantially the following form:

[FORM OF CERTIFICATE]

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the complete final approving opinion (except for date and letterhead) of McNair Law Firm, P.A., Columbia, South Carolina, approving the issue of Bonds of which the within Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the Bonds and a copy of which is on file with the County Council of Sumter County, South Carolina.

SUMTER COUNTY, SOUTH CAROLINA

By: _____
Clerk, County Council

FORM OF NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Sumter County, South Carolina (the "County"), in County Council Chambers located at 13 East Canal Street, Sumter, South Carolina, at 6:00 p.m. or as soon thereafter as possible, on _____, _____, 2018, or at such other location as proper notice on the main entrance to the said building might specify.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of General Obligation Bonds, Series 2018A or such other appropriate series designation, of Sumter County, South Carolina, in the principal amount of not exceeding \$2,500,000 (the "Bonds"). The proceeds of the Bonds will be used for: (i) funding capital projects (ii) paying costs of issuance of the Bonds; and (iii) such other lawful purposes as the Council shall determine.

The full faith, credit, and taxing power of the County will be pledged for the payment of the principal of and interest on the Bonds and a tax, without limit, will be levied on and collected annually, in the same manner other County taxes are levied and collected, on all taxable property of the County sufficient to pay to principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinance and the issuance of the Bonds.

COUNTY COUNCIL OF SUMTER COUNTY,
SOUTH CAROLINA

FORM OF NOTICE

NOTICE

NOTICE IS HEREBY GIVEN that the County Council (the “County Council”) of Sumter County, South Carolina (the “County”), on _____ enacted Ordinance No. _____ entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2018A, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$2,500,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR TO PRESCRIBE CERTAIN DETAILS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF AND OTHER MATTERS RELATING THERETO” (the “Ordinance”). The Ordinance authorized the issuance and sale of not exceeding \$2,500,000 General Obligation Bonds, Series 2018A (the “Bonds”) of the County.

The proceeds of the Bonds will be used for any one or more of the following purposes: (i) funding capital projects; (ii) paying costs of issuance of the Bonds; and (iii) such other lawful purposes as the County Council shall determine.

Pursuant to Section 11-27-40(8) of the South Carolina Code of Laws, 1976, as amended, unless a notice, signed by not less than five (5) qualified electors of the County, of the intention to seek a referendum is filed both in the office of the Clerk of Court of the County and with the Clerk of the County Council, the initiative and referendum provisions of South Carolina law, Sections 4-9-1210 to 4-9-1230, South Carolina Code of Laws 1976, as amended, shall not be applicable to the Ordinance. The notice of intention to seek a referendum must be filed within twenty (20) days following the publication of this notice of the adoption of the aforesaid Ordinance in a newspaper of general circulation in Sumter County.

COUNTY COUNCIL OF SUMTER COUNTY,
SOUTH CAROLINA

FORM OF NOTICE OF SALE

\$ _____ GENERAL OBLIGATION BONDS, SERIES 2018A,
OF SUMTER COUNTY, SOUTH CAROLINA

Time and Place of Sale: NOTICE IS HEREBY GIVEN that sealed bids and electronic bids will be received on behalf of Sumter County, South Carolina (the "County"), until 11:00 a.m., South Carolina time, on _____, _____, 2018, at which time said proposals will be publicly opened for the purchase of \$ _____ General Obligation Bonds, Series 2018A, of the County (the "Bonds").

Bids: Electronic proposals only submitted through i-Deal's Parity Electronic Bid Submission System ("Parity") will be accepted. No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 1359 Broadway, 2nd Floor, New York, New York 10018, Customer Support, telephone (212) 849-5021.

Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bond representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing each year; Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC.

The Bonds will be issued in fully-registered form registered as to principal and interest; will be dated _____, 2018; will be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing in each year; and will mature serially in successive annual installments on _____ in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount*</u>	<u>Year</u>	<u>Principal Amount*</u>
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*Preliminary, subject to adjustment.

Adjustment of Maturity Schedule. The County reserves the right, in its sole discretion, either to decrease or increase the principal amount of the Bonds maturing in any year (all calculations to be rounded to the near \$5,000), provided that any such decrease or increase shall not exceed 10% of the Bonds. Such adjustment(s), if any, shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award of the Bonds, bidders must disclose to the County in connection with their respective bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment of the maturity schedule for the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. Nevertheless, the

award of the Bonds will be made to the bidder whose proposal produces the lowest true interest cost solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of the Bonds pursuant to this paragraph.

The Bonds will bear interest from the date thereof payable semiannually on _____ and _____ of each year, commencing _____, until they mature.

[Redemption Provisions]

Registrar/Paying Agent: Regions Bank, Atlanta, Georgia will serve as Registrar/Paying Agent for the Bonds.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% and the interest rate specified for any maturity shall not be lower than the interest rate specified for any previous maturity. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. A bid for less than all the Bonds, a bid at a price less than par or a bid which includes a premium in excess of 10% of the par amount of the Bonds will not be considered. In addition to the bid price, the successful bidder must pay accrued interest from the date of the Bonds to the date of full payment of the purchase price.

Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the County. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, the winning bid will be awarded by lot. The County reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on the date of the sale.

Security: The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the County sufficient to pay the principal and interest of the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Good Faith Deposit: No good faith deposit is required.

Official Statement: Upon the award of the Bonds, the County will prepare an official statement (the "Official Statement") in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the County will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking County Council. The successful bidder agrees to supply to the County all necessary pricing information and any Underwriter identification necessary to complete the Official Statement within 24 hours after the award of the Bonds.

Continuing Disclosure: In order to assist the bidders in complying with S.E.C. Rule 15c2-12(b)(5), the County will undertake, pursuant to an ordinance and a continuing disclosure certificate, to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

Legal Opinion: The County Council shall furnish upon delivery of the Bonds the final approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, which opinion shall accompany each Bond, together with the usual closing documents, including a certificate of the County that no litigation is pending affecting the Bonds.

Certificate as to Issue Price: [TO BE PROVIDED]

Financial Advisor: Compass Municipal Advisors, LLC has acted as Financial Advisor to the School District in connection with the issuance of the Bonds. In this capacity, Compass Municipal Advisors, LLC provided technical assistance in the preparation of the offering documents and assisted the School District in preparing for this financing.

Delivery: The Bonds will be delivered on or about _____, 2018, in New York, New York, at the expense of the County. The balance of the purchase price then due, including the amount of accrued interest, must be paid in federal funds or other immediately available funds.

Additional Information: The Preliminary Official Statement of the County with respect to the Bonds is available via the internet at officialstatements.compassmuni.com and will be furnished to any person interested in bidding for the Bonds upon request. The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Notice of Sale as to the complete information concerning the Bonds. Persons seeking additional information should communicate with the County's bond counsel, Francenia B. Heizer, Esquire, McNair Law Firm, P.A., 1221 Main Street, Suite 1800, Columbia, South Carolina, 29201, telephone (803) 799-9800, e-mail: fheizer@mcnair.net or with the County's financial advisor, R. Michael Gallagher, Director, Compass Municipal Advisors, LLC, 1310 Pulaski Street, Columbia, South Carolina 29201; telephone (803) 765-1004; e-mail: mike.gallagher@compassmuni.com.

SUMTER COUNTY, SOUTH CAROLINA

FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by Sumter County, South Carolina (the “County”) in connection with the issuance of \$_____ General Obligation Bonds, Series 2018A (the “Bonds”). The Bonds are being issued pursuant to an Ordinance adopted by the County Council of the County (the “Council”). The County covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the County for the benefit of the beneficial owners and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

SECTION 2. Definitions. The following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“Bonds” shall mean the \$_____ General Obligation Bonds, Series 2018A, Sumter County, South Carolina, dated _____, 2018.

“Dissemination Agent” shall mean the County or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“Repository” shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking County Council.

“Participating Underwriter” shall mean _____ and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SECTION 3. Provision of Annual Reports.

(a) The County shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 2019, to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the County shall provide the Annual Report to the Dissemination Agent, if other than the County; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date, unaudited financial statements of the County may be included in such Annual Report in lieu thereof, and the County shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the

audited financial statements of the County may be submitted separately from the balance of the Annual Report.

(b) If the County is unable to provide to the Repository an Annual Report by the date required in subsection (a), the County shall send a notice to the Municipal Securities Rulemaking County Council and State Depository, if any, in substantially the form attached hereto as *Exhibit A*.

(c) The Dissemination Agent shall:

- (1) determine each year prior to the date for providing the Annual Report the name and address of the Repository; and
- (2) if the Dissemination Agent is other than the County, file a report with the County and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

SECTION 4. Content of Annual Reports. The County's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the County, and shall, in addition, contain or incorporate by reference the following for the most recently completed fiscal year:

- (a) Population;
- (b) State appropriations subject to withholding under Article X, Sec. 14, South Carolina Constitution;
- (c) Outstanding general obligation indebtedness;
- (d) Assessed Value/Market Value of taxable property;
- (e) Tax rates;
- (f) Tax collections; and
- (g) Ten largest taxpayers (including fee-in-lieu-of-tax).

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the County is an "obligated person" (as defined by the Rule), which have been filed with the Repository. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking County Council. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the County shall give, or cause to be given, notice of the occurrence of any of the following events (the "Listed Events"):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;

- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the County;
- (14) The consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee.

(b) Upon the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), or (15) above, the County shall as soon as possible determine if such event would be material under applicable federal securities laws. If the County determines that the occurrence of such event would be material under applicable federal securities laws, the County shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.

(c) Upon the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), or (13) above, the County shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.

(d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the County.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the County may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the County, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the County, or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the County, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the County, or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of the Dissemination Agent. The provisions of this Section 11 shall apply if the Issuer is not the Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the County agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the County under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the County, the Dissemination Agent, the Participating Underwriters, and Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 13. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SUMTER COUNTY, SOUTH CAROLINA

By: _____
County Administrator

Dated: _____, 2018

NOTICE TO REPOSITORY OF FAILURE TO FILE ANNUAL REPORT

Name of County: Sumter County, South Carolina

Name of Bond Issue: \$_____ General Obligation Bonds, Series 2018A
Sumter County, South Carolina

Date of Issuance: _____, 2018

NOTICE IS HEREBY GIVEN that Sumter County, South Carolina (the "County") has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the County as Dissemination Agent. The County has notified us in writing that the Annual Report will be filed by _____.

Dated: _____

SUMTER COUNTY, SOUTH CAROLINA

**SUMTER COUNTY
ORDINANCE NO. 18-885**

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN SUMTER COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT BULLDOG, ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (COLLECTIVELY, THE "COMPANY"), PURSUANT TO WHICH THE COUNTY SHALL COVENANT TO ACCEPT CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE ESTABLISHMENT AND/OR EXPANSION OF CERTAIN FACILITIES IN THE COUNTY (THE "PROJECT"); (2) THE BENEFITS OF A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK TO BE MADE AVAILABLE TO THE COMPANY AND THE PROJECT; (3) CERTAIN SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH THE PROJECT; AND (4) OTHER MATTERS RELATING THERETO.

WHEREAS, Sumter County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, and, by incorporation, Section 4-29-68 of the Code, the "Special Source Act", and, together with the Negotiated FILOT Act, the "Act") and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, a company identified for the time being as Project Bulldog, acting for itself, one or more affiliates, and/or other project sponsors (collectively, the "Company") proposes to establish and/or expand certain facilities at one or more locations in the County (the "Project"); and

WHEREAS, the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$150,000,000, in the aggregate, in the Project and will create, or cause to be created, at least 125 new, full-time jobs, in the aggregate, within the County; and

WHEREAS, based on information provided to the County by the Company, the County has determined that the Project will subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations, and in order to induce the Company to locate the Project in the County, the Council adopted a Resolution on April 24, 2018 (the "Inducement Resolution"), whereby the County agreed to provide the benefits of a negotiated FILOT, a multi-county industrial or business park, and Special Source Credits with respect to the Project; and

WHEREAS, the County and the Company have agreed to specific terms and conditions of such arrangements as set forth herein and in a Fee in Lieu of Tax and Incentive Agreement by and among the County and the Company with respect to the Project (the "Incentive Agreement"), the form of which is presented to this meeting, which Incentive Agreement is to be dated as of [_____], 2018, or such other date as the parties may agree; and

WHEREAS, it appears that the Incentive Agreement 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 Council, as follows:

Section 1. As contemplated by Section 12-44-40(I) of the Negotiated FILOT Act, the findings and determinations set forth in the Inducement Resolution are hereby ratified and confirmed. In the event of any disparity or ambiguity between the terms and provisions of the Inducement Resolution and the terms and provisions of this Ordinance and the Incentive Agreement, the terms and provisions of this Ordinance and the Incentive Agreement shall control. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Incentive Agreement. Additionally, based on information provided to the County by the Company with respect to the Project, the County makes the following findings and determinations:

(a) The Project will constitute a "project" within the meaning of the Negotiated FILOT Act; and

(b) The Project, and the County's actions herein, will subserve the purposes of the Negotiated FILOT Act; and

(c) The Project is anticipated to benefit the general public welfare of the State and the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; and

(d) The Project gives rise to no pecuniary liability of the County or an incorporated municipality or a charge against the general credit or taxing power of either; and

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

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

Section 2.

(a) The County hereby agrees to enter into the Incentive Agreement, the terms of which are to be finalized and mutually acceptable to the County and the Company, with the Company, whereby the Company will agree to satisfy, or cause to be satisfied, certain investment requirements with respect to the Project within certain prescribed time periods in accordance with the Negotiated FILOT Act and the County, under certain conditions to be set forth in the Incentive Agreement, will agree to accept negotiated fee in lieu of *ad valorem* tax (“Negotiated FILOT”) payments with respect to the Project.

(b) (i) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 4%; provided, that, in the event that the Project fails to qualify as an “enhanced investment” under Section 12-44-30(7) of the Negotiated FILOT Act but nevertheless qualifies for a Negotiated FILOT under the Negotiated FILOT Act, an assessment ratio of 6% shall be applied retroactively and prospectively; (2) a millage rate of [362.2] mills, and which millage rate or millage rates shall adjust every five years pursuant to Section 12-44-50(A)(1)(b)(ii) of the Negotiated FILOT Act for the full term of the Negotiated FILOT; (3) the fair market value of the Project, determined in accordance with the Negotiated FILOT Act; and (4) such other terms and conditions as will be specified in the Incentive Agreement, including, without limitation, that the Company, in its sole discretion, may dispose of property and replace property subject to Negotiated FILOT payments to the maximum extent permitted by the Negotiated FILOT Act.

(ii) The Negotiated FILOT shall be calculated as provided in this Section 2(b) for that portion of the Project consisting of “economic development property” under the Negotiated FILOT Act. For each annual increment of investment in such economic development property, the annual Negotiated FILOT payments shall be payable for a payment period of twenty (20) years, all in accordance with the Negotiated FILOT Act. Accordingly, if such economic development property is placed in service during more than one year, each year’s investment shall be subject to the Negotiated FILOT for a payment period of twenty (20) years.

Section 3. The County will use its best efforts to ensure that the Project will be included, if not already included, and will remain, within the boundaries of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution on terms which allow the Company to seek from the State any additional jobs creation tax credits for the Project afforded by the laws of the State

for projects located within multi-county industrial parks and on terms, and for a duration, which facilitate the County's provision, and the Company's receipt, of the Special Source Credits referenced in Section 4 hereof.

Section 4. As an additional incentive to induce the Company to undertake the Project, and as reimbursement for investment in Special Source Improvements, and subject to the requirements of the Special Source Act and the terms and conditions of the Incentive Agreement, the County does hereby agree that the Company shall be entitled to receive, and the County shall provide, Special Source Credits against each FILOT payment, including, but not limited to, each Negotiated FILOT payment, due with respect to the Project for a period of ten (10) consecutive tax years, commencing with the tax year for which the initial Negotiated FILOT payment is due with respect to the Project, in an annual amount equal to twenty-five percent (25%) of such FILOT payment. In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded from time to time in connection with the Project.

Section 5. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement was set out in this Ordinance in its entirety. The Chairman of the Council is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to Council is hereby authorized, empowered and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Incentive Agreement to the Company. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the official or officials of the County executing the same, upon the advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Incentive Agreement now before this meeting.

Section 6. The Chairman of the Council, the County Administrator, and the Clerk to Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to the Incentive Agreement.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any section, phase, 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, phases, and provisions hereunder.

Section 8. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance]

Enacted and approved, in meeting duly assembled, this ____ day of _____, 2018.

SUMTER COUNTY, SOUTH CAROLINA

By: _____
James T. McCain, Jr., Chairman, County Council,
Sumter County, South Carolina

[SEAL]

Attest:

By: _____
Mary W. Blanding, Clerk to County Council,
Sumter County, South Carolina

First Reading: April 24, 2018
Second Reading: May 22, 2018
Public Hearing: _____, 2018
Third Reading: _____, 2018

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

between

SUMTER COUNTY, SOUTH CAROLINA

and

PROJECT BULLDOG

Dated as of _____, 2018

TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS	2
Section 1.01. Definitions	2
Section 1.02. References to Agreement.....	8
ARTICLE II REPRESENTATIONS AND WARRANTIES	9
Section 2.01. Representations and Warranties by County.....	9
Section 2.02. Representations and Warranties by the Company	9
ARTICLE III COVENANTS OF COUNTY	10
Section 3.01. Agreement to Accept Negotiated FILOT Payments.....	10
Section 3.02. Special Source Credits.....	10
Section 3.03. Multi-County Park Designation.....	11
Section 3.04. Commensurate Benefits.....	11
ARTICLE IV COVENANTS OF COMPANY	12
Section 4.01. Investment in Project.....	12
Section 4.02. Failure to Satisfy Minimum Special Source Credits Jobs Requirement.....	14
Section 4.03. Payment of Administration Expenses.....	15
Section 4.04. Use of Project for Lawful Activities.....	15
Section 4.05. Maintenance of Existence.....	15
Section 4.06. Records and Reports	17
Section 4.07. Funding for Special Source Improvements	18
Section 4.08. County Transfer of Title to Certain Land to Company	18
ARTICLE V FEES IN LIEU OF TAXES.....	18
Section 5.01. Payment of Fees in Lieu of Ad Valorem Taxes	18
Section 5.02. Statutory Lien	23
ARTICLE VI THIRD PARTY ARRANGEMENTS	24
Section 6.01. Conveyance of Liens and Interests; Assignment.....	24
Section 6.02. Sponsors and Sponsor Affiliates.....	24
ARTICLE VII TERM; TERMINATION	25
Section 7.01. Term.....	25
Section 7.02. Termination.....	25
ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES	25

TABLE OF CONTENTS
(continued)

	Page
Section 8.01. Events of Default	25
Section 8.02. Remedies on Event of Default	26
Section 8.03. Defaulted Payments	26
Section 8.04. Default by County	27
ARTICLE IX MISCELLANEOUS	27
Section 9.01. Rights and Remedies Cumulative	27
Section 9.02. Successors and Assigns	27
Section 9.03. Notices; Demands; Requests	27
Section 9.04. Applicable Law	28
Section 9.05. Entire Understanding	29
Section 9.06. Severability	29
Section 9.07. Headings and Table of Contents; References	29
Section 9.08. Multiple Counterparts	29
Section 9.09. Amendments	29
Section 9.10. Waiver	29
Section 9.11. Further Proceedings	29
Section 9.12. Indemnification Covenants	29
Section 9.13. No Liability of County Personnel	30
Section 9.14. Limitation of Liability	31
EXHIBIT A LAND DESCRIPTION	A-1
EXHIBIT B TRANSFER LAND DESCRIPTION	B-1

FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT

THIS FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT (this "Agreement") dated as of _____ 2018, by and between SUMTER COUNTY, SOUTH CAROLINA (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and a company identified for the time being as PROJECT BULLDOG, a _____ organized and existing under the laws of the State of _____, acting for itself, one or more affiliates, and/or other project sponsors (the "Company");

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the "Code"), particularly Title 12, Chapter 44 of the Code (the "Negotiated FILOT Act") and Title 4, Chapter 1 of the Code (the "Multi-County Park Act" or, as to Section 4-1-175 thereof, and, by incorporation Section 4-29-68 of the Code, the "Special Source Act", and, together with the Negotiated FILOT Act, the "Act") and by Article VIII, Section 13(D) of the South Carolina Constitution: (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain projects through which the economic development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, but not limited to, negotiated FILOT payments made pursuant to the Negotiated FILOT Act, with respect to a project; (iii) to permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iv) to create, in conjunction with one or more other counties, a multi-county industrial or business park in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, a company identified for the time being as Project Bulldog, , a _____ organized and existing under the laws of the State of _____, acting for itself, one or more affiliates, and/or other project sponsors (the "Company") proposes to invest in certain facilities at one or more locations in the County (the "Project"); and

WHEREAS, the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$150,000,000, in the aggregate, in the Project and will create, or cause to be created, at least 125 new, full-time jobs, in the aggregate, within the County, as set forth in greater detail herein; and

WHEREAS, the County has determined that the Project will subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations, and in order to induce the Company to locate the Project in the County, the Council adopted a Resolution on April 24, 2018 (the “Inducement Resolution”), whereby the County agreed to provide the benefits of a negotiated FILOT, a multi-county industrial or business park, and Special Source Credits with respect to the Project, the terms of all of which are set forth in greater detail in this Agreement; and

WHEREAS, the County has determined that it is in the best interests of the County to enter into this Agreement with the Company, subject to the terms and conditions set forth herein and, by Ordinance No. 18-885 enacted by the Council on [_____], 2018, approved the form, terms and conditions of this Agreement and ratified all prior actions taken with respect to the Project.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein, the above recitals which are incorporated herein by reference, the potential investment to be made, or caused to be made, and the potential jobs to be created, or caused to be created, by the Company which contribute to the tax base and the economic welfare of the County, the respective representations and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

“*Act*” shall mean, collectively, the Negotiated FILOT Act and the Multi-County Park Act, including, without limitation, the Special Source Act.

“*Administration Expenses*” shall mean the reasonable and necessary expenses incurred by the County in the fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions, including reasonable and necessary attorney’s fees at the hourly rates which are standard for the applicable legal services to the County, but excluding any expenses incurred by the County in defending either challenges to the incentives provided herein by third parties or suits brought by the Company or any other Co-Investor under **Section**

8.04 hereof; provided, however, that no such expense shall be considered an Administration Expense unless the Company, or other Co-Investor, required to pay such expense hereunder, shall have first agreed, prior to the County incurring such expense, as to the maximum amount thereof or as to the basis for which such expenses will be incurred, and the County shall have furnished to such Company, or such other Co-Investor, as the case may be, an itemized statement of all such expenses incurred.

“*Affiliate*” shall mean any corporation, limited liability company, partnership or other Person or entity which now or hereafter owns all or part of the Company or any other Co-Investor, as the case may be, or which is now or hereafter owned in whole or in part by the Company or any other Co-Investor, as the case may be, or by any partner, shareholder or owner of the Company or any other Co-Investor, as the case may be, and shall also include any subsidiary, affiliate or other Person, individual, or entity who now or hereafter bears a relationship to the Company or any other Co-Investor, as the case may be, as described in Section 267(b) of the Internal Revenue Code.

“*Agreement*” shall mean this Fee In Lieu of Tax and Incentive Agreement as originally executed and from time to time supplemented or amended as permitted herein.

“*Code*” shall mean the Code of Laws of South Carolina 1976, as amended unless the context clearly requires otherwise.

“*Co-Investor*” shall mean the Company, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Negotiated FILOT Act. **[As of the date of the original execution and delivery of this Agreement, the Company is the only Co-Investor.]**

“*Company*” shall mean a company identified for the time being as Project Bulldog, a _____ organized and existing under the laws of the State of _____, and any surviving, resulting, or transferee entity in any merger, consolidation or transfer of assets permitted under **Sections 4.06** or **6.01** hereof or any other assignee hereunder which is designated by the Company and approved by the County.

“*Council*” shall mean the governing body of the County and its successors.

“*Credit Eligible Entity*” shall have the meaning specified in **Section 3.02(a)** hereof.

“*County*” shall mean Sumter County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.

“*Deficiency Payment*” shall have the meaning specified in **Section 5.01(e)** hereof.

“*Department of Revenue*” shall mean the South Carolina Department of Revenue and any successor thereof.

“*Enhanced Investment FILOT Compliance Period*” shall mean the period commencing with the first day that Negotiated FILOT Property is purchased or acquired, whether before or after the date of this Agreement, and ending on the eighth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service, all as specified in Section 12-44-30(13) of the Negotiated FILOT Act. It is presently anticipated, but not required that the initial Negotiated FILOT Property comprising all or a portion of the Project will be placed in service in the Property Tax Year ending on [December 31, 20__] and, in such event, the Enhanced Investment FILOT Compliance Period will end on [December 31, 20__].

“*Enhanced Investment FILOT Minimum Requirement*” shall mean either (a) investment in the Project of at least \$150,000,000 (without regard to depreciation or other diminution in value) and creation of at least 125 new full-time jobs at the Project within the Enhanced Investment FILOT Compliance Period; or alternatively (b) investment in the Project of at least \$400,000,000 (without regard to depreciation or other diminution in value) within the Enhanced Investment FILOT Compliance Period, in accordance with Section 12-44-30(7) of the Negotiated FILOT Act.

“*Event of Default*” shall mean an Event of Default, as set forth in **Section 8.01** hereof.

“*Existing Property*” shall mean property which will not qualify for the Negotiated FILOT pursuant to Section 12-44-110 of the Negotiated FILOT Act, including without limitation property which has been subject to *ad valorem* taxes in the State prior to commencement of the Investment Period and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (a) the Land; (b) property acquired or constructed by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property, or property which has been placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County, including the Inducement Resolution, prior to execution of this Agreement pursuant to Section 12-44-40(E) of the Negotiated FILOT Act, which property shall qualify as Negotiated FILOT Property; (c) property purchased by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Company or such other Sponsor or Sponsor Affiliate invests at least an additional \$45,000,000 in the Project, exclusive of the property identified in this subsection (c); or (d) modifications which constitute an expansion of the real property portion of Existing Property.

“*FILOT*” shall mean fee in lieu of *ad valorem* property taxes.

“*FILOT Payment*” or “*FILOT Payments*” shall mean the FILOT payments to be made by the Company or any other Co-Investor with respect to the Project, whether made as Negotiated FILOT Payments pursuant to **Section 5.01** hereof or as FILOT payments made pursuant to the Multi-County Park Act.

“*Investment Period*” shall mean the period for completion of the Project, which shall be initially equal to the Enhanced Investment FILOT Compliance Period, provided, however, in the event that the Enhanced Investment FILOT Minimum Requirement is not satisfied within the Enhanced Investment FILOT Compliance Period, the Investment Period will revert, initially, to the Standard FILOT Compliance Period, all in accordance with Section 12-44-30 of the Negotiated FILOT Act; provided, however, that, if the Minimum Investment Period Extension Requirement is satisfied by the end of the Enhanced Investment FILOT Compliance Period or the Standard FILOT Compliance Period, whichever is applicable as set forth above, the Investment Period shall be automatically extended, without further action or proceedings of the County or the Council, by five (5) years; provided, further, that there shall be no extension of the period for meeting the Enhanced Investment FILOT Minimum Requirement beyond the Enhanced Investment FILOT Compliance Period, or, in the event that the Enhanced Investment FILOT Requirement is not met by the end of the Enhanced Investment FILOT Compliance Period, for meeting the Standard FILOT Minimum Requirement beyond the Standard FILOT Compliance Period, as the case may be, all determined as specified in Section 12-44-30(13) of the Negotiated FILOT Act. In the event that the initial Negotiated FILOT Property comprising all or a portion of the Project is, as presently anticipated, placed in service in the Property Tax Year ending on **[December 31, 2018]**, upon any such extension, the Investment Period will end on **[December 31, 2028]**.

“*Land*” shall mean the land upon which the Project has been or will be acquired, constructed and equipped, as described on **Exhibit A** attached hereto, as **Exhibit A** may be revised, modified, or supplemented from time to time in accordance with the provisions hereof.

“*Minimum Investment Period Extension Requirement*” shall mean investment in the Project within the Enhanced Investment FILOT Compliance Period by the Company and all Co-Investors, in the aggregate, of at least \$80,000,000 (without regard to depreciation or other diminution in value); provided, however, in the event that the Enhanced Investment FILOT Minimum Requirement is not satisfied within the Enhanced Investment FILOT Compliance Period, the time period within which such investment level must be satisfied shall revert to the Standard FILOT Compliance Period.

“*Minimum Special Source Credits Jobs Requirement*” shall mean the creation of at least 75 new, full-time jobs in the County by the Company and all Co-Investors, in the aggregate,

within the period commencing on January 1, [2017] and ending at the end of the Enhanced Investment FILOT Compliance Period.

“Multi-County Park” shall mean the multi-county industrial or business park established pursuant to the Multi-County Park Act and the Multi-County Park Agreement, and any multi-county industrial or business park which now or hereafter includes the Project and which is designated by the County as such pursuant to any agreement, which supersedes or replaces the initial Multi-County Park Agreement.

“Multi-County Park Act” shall mean Title 4, Chapter 1 of the Code.

“Multi-County Park Agreement” shall mean that certain Master Agreement governing the Sumter-Lee Industrial Park by and between the County and Lee County, South Carolina dated as of December 31, 2012 as supplemented, modified or amended, and, as such agreement may be further supplemented, modified, amended, or replaced from time to time.

“Negotiated FILOT” or *“Negotiated FILOT Payments”* shall mean the FILOT payments due pursuant to **Section 5.01** hereof with respect to that portion of the Project consisting of Negotiated FILOT Property qualifying under the Negotiated FILOT Act for the negotiated assessment ratio and millage rate or rates described in **Section 5.01(b)(ii)** hereof.

“Negotiated FILOT Act” shall mean Title 12, Chapter 44 of the Code.

“Negotiated FILOT Property” shall mean all Project property qualifying for the Negotiated FILOT as economic development property within the meaning of Section 12-44-30(6) of the Negotiated FILOT Act, including, without limitation, each item of real and tangible personal property comprising the Project which is placed in service during the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the Negotiated FILOT Act, together with all Replacement Property, but excluding any Non-Qualifying Property, and any Released Property.

“Non-Qualifying Property” shall mean that portion of the real and personal property located on the Land, which does not qualify as Negotiated FILOT Property, such Non-Qualifying Property to include: (i) Existing Property; (ii) except as to Replacement Property, property which the Company or any other Sponsor or Sponsor Affiliate places in service after the end of the Investment Period; and (iii) any other property which fails or ceases to qualify for Negotiated FILOT Payments under the Negotiated FILOT Act or under this Agreement, including without limitation property as to which the Company or any other Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT pursuant to **Section 4.01(d)(iii)** hereof.

“Person” shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

“Project” shall mean: (i) the Land and all buildings, structures, fixtures and other real property improvements now or hereafter constructed on the Land; (ii) all machinery, equipment, furnishings and other personal property now or hereafter acquired by or on behalf of the Company or any other Co-Investors for use on or about the Land; and (iii) any Replacement Property; provided, however, except as to Replacement Property, the term Project shall be deemed to include any such real property improvements and personal property, whether now existing or hereafter constructed, improved, acquired or equipped, only to the extent placed in service within the Investment Period.

“Property Tax Year” shall mean the annual period which is equal to the fiscal year of the Company, or any other Co-Investor, as the case may be, *i.e.*, with respect to the Company, the annual period ending on December 31 of each year.

“Released Property” shall include property which was initially Negotiated FILOT Property but which is scrapped, sold, disposed of, or released from this Agreement by the Company or any other Sponsor or Sponsor Affiliate pursuant to **Section 4.01(d)** hereof and Section 12-44-50(B) of the Negotiated FILOT Act, any portion of the Negotiated FILOT Property constituting infrastructure which the Company or any other Sponsor or Sponsor Affiliate dedicates to the public use within the meaning of Section 12-6-3420(C) of the Code, or property which is damaged, destroyed, or taken by process of eminent domain and not restored or replaced.

“Replacement Property” shall mean all property placed in service on the Land in substitution of, or as replacement for, any Negotiated FILOT Property which becomes Released Property, regardless of whether such property serves the same function as the property it replaces and regardless of whether more than one piece of such property replaces a single piece of the Negotiated FILOT Property, to the maximum extent that such property may be included in the calculation of the Negotiated FILOT pursuant to **Section 5.01(d)** hereof and Section 12-44-60 of the Negotiated FILOT Act.

“Special Source Act” shall mean Section 4-1-175 of the Code.

“Special Source Credits” shall mean the special source revenue credits described in **Section 3.02** hereof.

[“Special Source Improvements” shall mean to the extent paid for by the Company or any other Co-Investor, any infrastructure serving the economic development of the County and any improved or unimproved real property, buildings, structural components of buildings, fixtures, or other real property improvements and, upon the written election of the Company to the County, (effective as of the election date set forth in the written election, whether before or after the date of the written election) personal property, including machinery and equipment, used in the operation of a manufacturing or

commercial enterprise in order to enhance the economic development of the County, all as set forth in the Special Source Act. For purposes of this Agreement, Special Source Improvements shall initially be deemed to include, without limitation, all roadwork, water, sewer, drainage, power and utility facilities serving the Project, as well as the Land, the buildings, fixtures and other real property improvements on the Land, and any additions or improvements to any of the foregoing, whether paid for by the Company or any Co-Investors directly or through lease payments.]

“Sponsor” and *“Sponsor Affiliate”* shall mean an entity whose investment with respect to the Project will qualify for the Negotiated FILOT pursuant to **Section 6.02** hereof and Sections 12-44-30(19) or (20) and Section 12-44-130 of the Negotiated FILOT Act if the statutory investment requirements are met. **[As of the original execution and delivery of the Agreement, the only Sponsor is the Company and there are no Sponsor Affiliates.]**

“Standard FILOT Compliance Period” shall mean the period commencing with the first day that Negotiated FILOT Property is purchased or acquired, whether before or after the date of this Agreement, and ending on the fifth anniversary of the end of the Property Tax Year in which the initial Negotiated FILOT Property comprising all or a portion of the Project is placed in service, all as specified in Section 12-44-30(13) of the Negotiated FILOT Act. It is presently anticipated, but not required that the initial Negotiated FILOT Property comprising all or a portion of the Project will be placed in service in the Property Tax Year ending on **[December 31, 20__]** and, in such event, the Enhanced Investment FILOT Compliance Period will end on **[December 31, 20__]**.

“Standard FILOT Minimum Requirement” shall mean investment in the Project of not less than \$2,500,000 within the Enhanced Investment FILOT Compliance Period, as set forth in by Section 12-44-30(14) of the Negotiated FILOT Act, which investment amount shall be calculated in accordance with, and subject to, Section 12-44-130 of the Negotiated FILOT Act and **Section 6.02** hereof.

“State” shall mean the State of South Carolina.

“Term” shall mean the term of this Agreement, as set forth in **Section 7.01** hereof.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Negotiated FILOT Act.

Section 1.02. References to Agreement. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties by County. The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the Council, the County has duly authorized the execution and delivery of this Agreement and has duly approved the Negotiated FILOT, the Special Source Credits, and the inclusion and maintenance of the Project in the Multi-County Park, all as set forth herein, as well as any and all actions reasonably necessary and appropriate to consummate the transactions contemplated hereby.

(b) On the basis of information supplied to it by the Company, the County has determined the Project will subserve the purposes of the Act and has made all other findings of fact required by the Act in connection with the undertaking of the arrangements set forth herein.

(c) This Agreement has been duly authorized, executed and delivered on behalf of the County. The authorization, execution, and delivery of this Agreement and the performance by the County of its obligations hereunder will not, to the best knowledge of the County, conflict with or constitute a breach of, or a default under, any South Carolina law, court or administrative regulation, decree, order, provision of the Constitution or laws of the State relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound, nor, to the best knowledge of the County, any existing law or the provisions of the Constitution of the State.

(d) To the best knowledge of the County, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, any of which to the best knowledge of the County could materially adversely affect this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement or the transactions contemplated hereby.

Section 2.02. Representations and Warranties by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a [_____] validly existing and in good standing under the laws of the State of South Carolina and is authorized to do business in the State; has all

requisite power to enter into this Agreement and to carry out its obligations hereunder; and by proper action has been duly authorized to execute and deliver this Agreement. The Company's fiscal year end is December 31 and the Company will notify the County of any changes in the fiscal year of the Company.

(b) The Company presently intends to operate the Project as facilities primarily for [_____].

(c) The agreements with the County with respect to the Negotiated FILOT, the Special Source Credits, and the Multi-County Park, as set forth herein, were factors in inducing the Company to locate the Project within the County and the State.

(d) To the best knowledge of the Company, no actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which would materially adversely affect this Agreement or which would, in any way, adversely affect the validity or enforceability of this Agreement, or the transactions contemplated hereby.

(e) The Company has retained legal counsel to advise, or has had a reasonable opportunity to consult legal counsel to advise, of its eligibility for the Negotiated FILOT and other incentives granted by this Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the Negotiated FILOT and other incentives granted by this Agreement.

ARTICLE III

COVENANTS OF COUNTY

Section 3.01. Agreement to Accept Negotiated FILOT Payments. The County hereby agrees to accept Negotiated FILOT Payments in accordance with the provisions of **Section 5.01** hereof in lieu of *ad valorem* taxes with respect to that portion of the Project consisting of Negotiated FILOT Property until this Agreement expires or is sooner terminated.

Section 3.02. Special Source Credits.

(a) As reimbursement for investment in Special Source Improvements and subject to the requirements of the Special Source Act, the County hereby agrees that the Company and each other Co-Investor (each, a "Credit Eligible Entity") shall be entitled to receive, and the County shall provide, Special Source Credits against each FILOT Payment due from each such Credit Eligible Entity with respect to the Project for a period of ten (10) consecutive tax years, commencing with the tax year for which the initial Negotiated FILOT

payment is due with respect to the Project, in an annual amount equal to twenty-five percent (25%) of each such FILOT Payment. In accordance with the Special Source Act, the Special Source Credits authorized herein shall not, in the aggregate, exceed the aggregate cost of Special Source Improvements funded from time to time in connection with the Project by the Company and all other Credit Eligible Entities.

(b) The Special Source Credits to which a Credit Eligible Facility is entitled for each tax year of the period set forth in **Section 3.02(a)** hereof shall be reflected by the County on each bill sent by the County to such Credit Eligible Entity for each FILOT Payment due from such Credit Eligible Entity with respect to each such tax year, by reducing the total original FILOT Payment amount otherwise due from such Credit Eligible Entity for such tax year by the amount of Special Source Credits to which such Credit Eligible Entity is entitled for such tax year.

Section 3.03. Multi-County Park Designation. **[The County hereby represents and acknowledges that the property comprising the Land as of the original execution and delivery of the Incentive Agreement is located within the boundaries of the Multi-County Park.]** The County agrees to designate the Project as part of a Multi-County Park, if not already so designated, and agrees to use its best, commercially reasonable efforts to maintain the Project within the boundaries of the Multi-County Park for the duration of this Agreement pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution. The County hereby further agrees to take such further actions as may be necessary to effect any such initial or continued Multi-County Park designation under and pursuant to the Multi-County Park Agreement.

Section 3.04. Commensurate Benefits. The parties acknowledge the intent of this Agreement, in part, is to afford the Company and each other Co-Investor the benefits specified in this Article III in consideration of the Company's decision to locate the Project within the County, and this Agreement has been entered into in reliance upon the enactment of the Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the Act is, in whole or in part, unconstitutional or this Agreement, the Multi-County Park Agreement, or agreements similar in nature to this Agreement or the Multi-County Park Agreement are invalid or unenforceable in any material respect, or should the Company determine there is a reasonable doubt as to the validity or enforceability of this Agreement or the Multi-County Park Agreement in any material respect, then at the request of the Company, the County agrees to use its best efforts, and to take such other steps as may be reasonably necessary, to extend to the Company and each other Co-Investor the intended benefits of this Agreement, including, but not limited to, the Negotiated FILOT and the Special Source Credits and agrees, if requested by the Company, to enter into a lease purchase agreement with the Company and each other Co-Investor pursuant to Section 12-44-160 of the Negotiated FILOT Act and Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, the terms of which shall be mutually agreeable to the County and the Company. In

furtherance of this covenant, the County also agrees that, in the event that, for any reason, the Multi-County Park is declared by a court of competent jurisdiction to be invalid or unenforceable in whole or in part, the Company and the County express their intentions that tax or FILOT payments be reformed so as to best afford the Company and each other Co-Investor benefits commensurate with, but not in excess of, those intended under this Agreement, including, but not limited to, the Special Source Credits, as then permitted by law, including, without limitation, any benefits afforded under Title 12, Chapter 6, Title 4, Chapter 1 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law.

ARTICLE IV

COVENANTS OF COMPANY

Section 4.01. Investment in Project.

(a) The Company hereby agrees to acquire, construct, equip, or improve or cause to be acquired, constructed, equipped, or improved, the Project, as the same shall be determined from time to time by the Company in its sole discretion. As required by Section 12-44-30(2) of the Negotiated FILOT Act, at least a portion of the Negotiated FILOT Property comprising the Project shall be placed in service no later than the end of the Property Tax Year which is three years from the year in which this Agreement is entered, *i.e.*, the Property Tax Year ending on December 31, 2021.

(b) Notwithstanding anything herein to the contrary, and to the maximum extent permitted by law, investment in Negotiated FILOT Property and job creation in the County at the Project by any and all other permitted Co-Investors shall together with investment in Negotiated FILOT Property and job creation in the County at the Project by the Company, count to the full extent permitted by the Negotiated FILOT Act, the Enhanced Investment FILOT Minimum Requirement, the Minimum Investment Period Extension Requirement, the Minimum Special Source Credits Jobs Requirement, and the Standard FILOT Minimum Requirement. Aggregate investment shall generally be determined by reference to the property tax returns of the Company and each other Co-Investor filed with respect to the Project, including without limitation, each such entity's assets listed on a SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act, without regard to depreciation or other diminution in value.

(c) Subject to the provision of **Sections 4.05** and **6.01** hereof, the Company and each other Co-Investor shall, retain title to, or other property rights in, its respective portion of the Project throughout the Term of this Agreement, and the Company and each other Co-Investor shall have full right to mortgage, lease, or encumber all or any portion of the Project, including without limitation, in connection with any financing transactions, all without the consent of the County.

(d) The Company and each other Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company and each other Co-Investor may, at its own expense, add to the Project all such real and personal property as the Company, or such other Co-Investor, in its discretion deems useful or desirable, including, without limitation, Negotiated FILOT Property, without any limit as to the amount thereof.

(ii) Subject to the provisions of **Section 5.01(f)(ii)** hereof, in any instance when the Company or any other Co-Investor, in its discretion, determines any property included in the Project, including without limitation, any Negotiated FILOT Property, has become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company or such other Co-Investor may remove such property from the Project and sell, trade in, exchange, or otherwise dispose of them as a whole or in part without the consent of the County.

(iii) The Company and each other Co-Investor may, at any time and in its discretion by written notice to the County, remove any Project property including, but not limited to, Negotiated FILOT Property, real or personal, from the Project or from the provisions of this Agreement including, but not limited to, the Negotiated FILOT arrangement set forth in this Agreement and retain such property for use as part of its operations in the County, whether or not such property remains as part of the Project, and effective as of the date of any such removal, such property will be subject to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be; provided, that, any such notice requirement may be, but shall not be required to be, satisfied by property tax returns filed with respect to the Project and any other such property, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Act, and in such event, any such removal reflected by any such return shall be deemed to be effective as of the date of such removal.

(iv) If the Company or any other Co-Investor sells, leases, or otherwise disposes of any portion of, or adds to, the Land, or removes any portion of the Land from the Project while retaining such property for use as part of its operations in the County, all as permitted herein, the Company or such Co-Investor shall deliver to the County a revised **Exhibit A** to this Agreement or supplements to **Exhibit A** reflecting any such addition, disposal or removal and such revised or supplemented **Exhibit A** shall, effective as of the date of any such transaction, addition, disposal, or removal, be automatically made a part of this Agreement without further action or proceedings by the County or the Council; provided, that any requirement to provide such schedules or supplements to the County may be satisfied by property tax returns filed with respect to the Project and any other such property, including without limitation, such entity's SCDOR PT-300 or such comparable forms, as the Department of Revenue may provide in connection with projects under the Negotiated FILOT Act, and in

such event, any such addition, disposal, or removal reflected by any such return, shall be automatically deemed effective as of the date of any such addition, disposal, or removal.

(v) All Negotiated FILOT Property sold or otherwise disposed of under this Section shall be deemed Released Property for purposes of this Agreement.

Section 4.02. Failure to Satisfy Minimum Special Source Credits Jobs Requirement. If the Minimum Special Source Credits Jobs Requirement is not satisfied by the end of the Enhanced Investment FILOT Compliance Period, each of the following subsections (a) – (c) shall apply:

(a) The Company and each other Sponsor or Sponsor Affiliate shall continue to be eligible for the Negotiated FILOT described in **Section 5.01** hereof so long as the Minimum Statutory Investment Requirement is nevertheless satisfied by the end of the Enhanced Investment FILOT Compliance Period.

(b) On behalf of each Credit Eligible Entity, the Company shall, to the extent required by the below provisions of this **Section 4.02(b)**, reimburse the County for any Special Source Credits previously received, or to be received (upon actual receipt), by each such Credit Eligible Entity for each tax year for which each such Credit Eligible Entity is entitled to receive Special Source Credits under **Section 3.02(a)** hereof and for which a Negotiated FILOT Payment has been, or will be, due to be paid without penalty with respect to the Project on or before the January 15 immediately following the end of the Enhanced Investment FILOT Compliance Period (collectively, the “Compliance Period Special Source Credits”), taking into account the highest number of new, full-time jobs created, in the aggregate, at the Project within the period set forth in the Minimum Jobs Requirement at any time during such period (the “Actual Project Jobs”), as compared to the Minimum Special Source Credits Jobs Requirement, as further detailed and illustrated in the formula and examples set forth below:

Formula:

1.
$$\frac{\text{Actual Project Jobs}}{75 \text{ new, full-time jobs}} = \text{Jobs Satisfaction Percentage [JSP]}$$
2.
$$100\% - \text{JSP} = \text{Jobs Satisfaction Factor [JSF]}$$
3. In the event that determination of the Jobs Satisfaction Factor results in a positive percentage figure, the Jobs Satisfaction Factor shall be applied to the Compliance Period Special Source Credits received, or to be received (upon actual receipt), by each Credit Eligible Entity as set forth above to determine reimbursement amounts due to the County, if any, from the Company. Any such amounts shall be due to be paid by the Company

within sixty (60) days of receipt by the Company of written notice from the County of such amounts being due.

(c) Each Credit Eligible Entity may continue to be eligible for Special Source Credits against each FILOT Payment due from such Credit Eligible Entity with respect to the Project for the remaining tax years of the period set forth in **Section 3.02(a)** hereof; provided, however, in the event that determination of the Jobs Satisfaction Factor pursuant to **Section 4.02(b)** hereof results in a positive percentage figure, the initial Special Source Credits percentage set forth in **Section 3.02(a)** hereof of twenty-five percent (25%) shall be reduced for the remaining such tax years by the percentage equal to such Jobs Satisfaction Factor, as further illustrated in the example set forth below:

Example:

As an example, assuming a Jobs Satisfaction Factor of twenty percent (20%), the Special Source Credits percentage applicable for the remaining period would be reduced from 25% by 20% of such initial Special Source Credits percentage, down to a Special Source Credits percentage of 20%.

Section 4.03. Payment of Administration Expenses. The Company or any other Co-Investor will reimburse, or cause reimbursement of, the County from time to time for the County's Administration Expenses incurred in the fulfillment of its obligations hereunder, or in the implementation of this Agreement's terms and provisions, with respect to the Company or such other Co-Investor, respectively, promptly upon written request therefor, but in no event later than ninety (90) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the Project or the incentives authorized by this Agreement, and, aside from the attorneys' fees set forth below, the County anticipates no out of pocket expenses in connection with this Agreement and the transactions authorized hereby. The parties understand that the County has incurred, and will incur, legal fees and other expenses for review of the Inducement Resolution, this Agreement, the Multi-County Park Agreement and all resolutions, ordinances and other documentation related thereto in an amount not to exceed [\$ _____].

Section 4.04. Use of Project for Lawful Activities. During the Term of this Agreement, the Company and each other Co-Investor may use the Project as it deems fit for any lawful purpose.

Section 4.05. Maintenance of Existence. Except in the event the resulting, surviving or transferee entity is the Company or an Affiliate of the Company, as to which such consolidation, merger, or transfer, the County hereby preapproves and consents, unless the County shall provide prior consent or subsequent ratification otherwise, which consent or

ratification shall not be unreasonably withheld, conditioned, or delayed, the Company covenants that it will maintain its separate existence and will not dissolve or consolidate with, merge into or transfer, or otherwise dispose of substantially all of its property to any other entity or permit one or more other entities to consolidate with or merge into it or purchase substantially all of its property unless:

(a) the Company shall be the continuing business entity, or the business entity formed by such consolidation or into which the Company is merged or the entity which acquires by conveyance or transfer all or substantially all of the Company's assets shall (i) be an entity organized and existing under the laws of the United States of America or any state thereof or the District of Columbia and qualified to do business in the State; (ii) have a net worth equal to or greater than the net worth of the Company immediately preceding the date of such merger, consolidation or transfer; and (iii) expressly and unconditionally assume, by written agreement supplemental hereto and acceptable to the County as to form and content, in its reasonable discretion, every payment obligation of the Company herein and the performance of every covenant of this Agreement on the part of the Company to be performed or observed; and

(b) immediately after giving effect to such transaction, no Event of Default, and no event, which, after notice or lapse of time or both, would become an Event of Default, shall have happened and be continuing; and

(c) the Company shall have delivered to the County (i) a certificate of a duly authorized officer of the Company, accompanied by financial statements of the surviving company (if other than the Company) showing compliance with the net worth requirements specified in paragraph (a) above and (ii) an opinion of counsel for the Company and/or counsel to the transferee company, each stating that such consolidation, merger, conveyance or transfer and such supplement to this Agreement comply with this Section and that all conditions precedent herein provided for relating to such transaction have been complied with.

Upon any consolidation or merger or any conveyance or transfer of all or substantially all of the Company's assets in accordance with this **Section 4.05**, the successor entity formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made, shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Agreement with the same effect as if such successor entity had been named as the Company herein, and thereafter the Company shall be relieved of all obligations and covenants under this Agreement.

If a consolidation, merger or conveyance or transfer is made as permitted by this Section, the provisions of this Section shall continue in full force and effect and no further consolidation, merger or conveyance or transfer shall be made except in compliance with the provisions of this **Section 4.05**.

The Company acknowledges transfers of this Agreement or the Negotiated FILOT Property may cause the Negotiated FILOT Property to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company or any Co-Investor with the Transfer Provisions.

Section 4.06. Records and Reports. The Company and each other Co-Investor will maintain, or cause to be maintained, such books and records with respect to its respective portion of the Project as will permit the identification of those portions of the Project it places in service during the Investment Period, the amount of investment with respect thereto, and any computations of Negotiated FILOT Payments made by such entity hereunder, and will comply with all reporting requirements of the State and the County applicable to Negotiated FILOT Property under the Negotiated FILOT Act, including without limitation the reports required by 12-44-90 of the Negotiated FILOT Act (collectively, "Filings"); provided, however, that the parties hereby waive in its entirety the requirement under Section 12-44-55 of the Negotiated FILOT Act for a recapitulation of the terms of this Agreement. In addition, the following records shall be provided to the County:

(a) Upon direction of the governing body of the County, a County Official may request and obtain such financial books and records from the Company and any other Sponsor or Sponsor Affiliate that support the Negotiated FILOT returns of the Company or such other Sponsor or Sponsor Affiliate as may be reasonably necessary to verify the calculations of the Negotiated FILOT Payments by the Company or such other Sponsor or Sponsor Affiliate. For purposes of this Agreement, the term "County Official" shall include the Administrator, Auditor, Assessor, or Treasurer of the County.

(b) Each year during the Term hereof, the Company and each other Sponsor or Sponsor Affiliate shall deliver to the County Auditor, the County Assessor and the County Treasurer a copy of any form or return it files with the Department of Revenue with respect to the Project at the same time as delivery thereof to the Department of Revenue.

(c) The Company shall cause a copy of this Agreement, as well as a copy of the completed Form PT-443 required by the Department of Revenue, to be filed within thirty (30) days after the date of original execution and delivery hereof with the County Auditor, the County Assessor and the County Treasurer of the County and of each other county which is a party to the Multi-County Park Agreement, and with the Department of Revenue and shall update such Form PT-443 from time to time to the extent that the information therein is no longer accurate.

Notwithstanding any other provision of this Section, the Company and each other Co-Investor may, by clear, written designation, conspicuously marked, designate with respect to any Filings or other documents or information delivered to the County segments thereof that the Company or such other Co-Investor believes contains proprietary, confidential, or trade secret

matters. The County shall comply with all reasonable, written requests made by the Company or any such other Co-Investor with respect to maintaining the confidentiality of such designated segments, to the extent allowed by law. Except to the extent required by law, unless the County has provided at least ten (10) days advance written notice to the Company or such other Co-Investor of such proposed release, the County shall not knowingly and voluntarily release any Filing, documents, or other information provided to the County by the Company or any other Co-Investor in connection with the Project, whether or not such information has been designated as confidential or proprietary by the Company or any other Co-Investor.

Section 4.07. Funding for Special Source Improvements. The Company and each other Co-Investor shall provide, or cause the provision of, funding for the Special Source Improvements related to its respective portion of the Project.

Section 4.08. County Transfer of Title to Certain Land to Company. The County hereby acknowledges and represents that it has entered into that certain Contract of Sale by and between the County and _____ dated as of October 30, 2017, whereby the County has, under the terms and conditions set forth therein, secured the right to purchase and acquire title to certain land amounting to approximately 15 acres more particularly described as Parcel _____ in **Exhibit** ___ hereto. Following the execution and delivery of this Agreement, the County hereby agrees to, at no cost to the Company, purchase and acquire such land, and subsequently transfer title to same to the Company, as soon thereafter as reasonably practicable, but in any event no later than ___ days from such execution and delivery. Such transfer of title to the Company shall be further set forth and effected in one or more deeds, agreements, instruments or other documents to be entered into by the County and the Company, which documents shall be in form and substance mutually agreeable to the County and the Company. The County hereby acknowledges and agrees that, upon such transfer of title to such land to the Company, such land shall automatically be eligible to become a part of the Land without further action, consent or approval of the County, in the sole discretion of the Company.

ARTICLE V

FEES IN LIEU OF TAXES

Section 5.01. Payment of Fees in Lieu of Ad Valorem Taxes.

(a) In accordance with the Negotiated FILOT Act, the parties hereby agree, during the Term hereof, that there shall be due annually with respect to that portion of the Project constituting Negotiated FILOT Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, a Negotiated FILOT Payment calculated as set forth in this **Section 5.01**, at the places, in the manner and subject to the penalty assessments prescribed by the County or the Department of Revenue for *ad valorem* taxes. It is presently anticipated, but not required, that the initial Negotiated FILOT Payment, which shall be due under current Code

requirements on the January 15 following the year in which the County adds the initial Negotiated FILOT Property to its tax rolls, will be due on **[January 15, 20__]**. If the Company designates any other Sponsor or Sponsor Affiliates, as the same shall have been consented to by the County, if such consent is required pursuant to **Section 6.02** hereof, the Company must notify the County in writing at the time of such designation as to whether such additional Sponsor or Sponsor Affiliate shall be primarily liable for the Negotiated FILOT Payments due hereunder with respect to such Sponsor or Sponsor Affiliate's respective portion of the Negotiated FILOT Property. Unless and until such additional notification is received, the Company shall be primarily liable for all Negotiated FILOT Payments due with respect to such Negotiated FILOT Property.

(b) Subject to adjustment pursuant to the provisions of this **Section 5.01**, the Negotiated FILOT shall be calculated each year in accordance with the following provisions:

(i) For each annual increment of investment in Negotiated FILOT Property, the annual Negotiated FILOT Payments shall initially be payable for a payment period of twenty (20) years. Accordingly, if such Negotiated FILOT Property is placed in service during more than one year, each year's investment during the Investment Period shall be subject to the Negotiated FILOT for a payment period of twenty (20) years.

(ii) The Negotiated FILOT shall be determined using: (1) an assessment ratio of 4%; provided, that, in the event that the Enhanced Investment FILOT Minimum Requirement is not satisfied by the end of the Enhanced Investment FILOT Compliance Period, but the Standard FILOT Minimum Requirement is satisfied by the end of the Standard FILOT Compliance Period, an assessment ratio of 6% shall be applicable retroactively and prospectively; (2) a millage rate of **[362.2]** mills, which millage rate or millage rates shall adjust every five years pursuant to Section 12-44-50(A)(1)(b)(ii) of the Negotiated FILOT Act for the full term of the Negotiated FILOT; and (3) the fair market value of such Negotiated FILOT Property as determined in accordance with Section 12-44-50(A)(1)(c) of the Negotiated FILOT Act, which, for typical arm's length construction or acquisition, uses the original income tax basis for any real property without regard to depreciation or reassessment and the original income tax basis for any personal property less allowable depreciation (except depreciation due to extraordinary obsolescence); provided, however, that the Company or any other Sponsor or Sponsor Affiliate and the County may agree, only in a writing approved by the Council, at a later date to amend this Agreement as to Negotiated FILOT property owned by the Company or such other Sponsor or Sponsor Affiliate so as to determine the fair market value of any such real property in accordance with any other method permitted by the Negotiated FILOT Act.

(iii) All such calculations shall take into account all deductions for depreciation or other diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the five-year exemption from County taxes allowed for certain

manufacturing, distribution, corporate headquarters and research and development facilities pursuant to Section 3(g) of Article X of the Constitution of the State and Sections 12-37-220(B)(32) and (34) of the Code; provided, however, the Company or any other Sponsor or Sponsor Affiliate shall not be entitled to extraordinary obsolescence with respect to Negotiated FILOT Property as set forth in Section 12-44-50(A)(1)(c)(ii) of the Negotiated FILOT Act.

(iv) For purposes of calculating the Negotiated FILOT, the Negotiated FILOT Property shall not include any Released Property or Non-Qualifying Property.

(c) To the extent not prohibited by the Department of Revenue, Negotiated FILOT Payments are to be recalculated (subject, always to the continuing requirements of **Section 5.01(f)**, hereof):

(i) to reduce such payments in the event the Company or any other Sponsor or Sponsor Affiliate disposes of any part of the Negotiated FILOT Property within the meaning of Section 12-44-50(B) of the Negotiated FILOT Act and as provided in **Section 4.01(d)(ii)** hereof, by the amount applicable to the Released Property;

(ii) to reduce such payments in the event that the Negotiated FILOT Property or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings or otherwise removed from the Project as a result of circumstances beyond the control of the Company or any other Sponsor or Sponsor Affiliate;

(iii) to increase such payments in the event the Company or any other Sponsor or Sponsor Affiliate adds any Negotiated FILOT Property (other than Replacement Property) to the Project; or

(iv) to adjust such payments if the Company or any other Sponsor or Sponsor Affiliate elects to convert any portion of the Negotiated FILOT Property from the Negotiated FILOT to *ad valorem* taxes or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, as permitted by **Section 4.01(d)(iii)**.

(d) Upon installation or placing in service of any Replacement Property for any Released Property, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by the Negotiated FILOT Act, subject to the following rules:

(i) Such Replacement Property does not have to serve the same function as the Released Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the Negotiated FILOT, whether real or personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Released Property which it is replacing in the same Property Tax Year. More than one piece of

property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Released Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes, or to the FILOT payments pursuant to the Multi-County Park Act, as the case may be, which would have been paid on such property but for this Agreement. Replacement Property is entitled to the Negotiated FILOT Payments for the remaining portion of the Negotiated FILOT Payment period set forth in **Section 5.01(b)(i)** hereof applicable to the Released Property

(ii) The Company or any other Sponsor or Sponsor Affiliate shall maintain, or cause to be maintained, records sufficient to identify all Replacement Property it places in service, and the Negotiated FILOT Payments with respect thereto shall be calculated using the millage rate and assessment ratio provided on the property it is replacing.

(e) In the event that, for any reason, the Negotiated FILOT Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Negotiated FILOT Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company and each other Sponsor or Sponsor Affiliate benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under Title 4, Chapter 12 and Title 4, Chapter 29 of the Code, as applicable, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder with respect to the portion of the Negotiated FILOT Property affected by such circumstances *ad valorem* taxes or FILOT payments pursuant to the Multi-County Park Act, as the case may be, and that, to the extent permitted by law, the Company and any other Sponsor or Sponsor Affiliate shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes, or from FILOT payments pursuant to the Multi-County Park Act, as the case may be, provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive all other tax credits which would be due if the Company and each other Sponsor or Sponsor Affiliate were obligated to pay *ad valorem* taxes, or make FILOT payments pursuant to the Multi-County Park Act, as the case may be, hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are subject to retroactive adjustment, then there shall be due and payable from the Company and any other Sponsor or Sponsor Affiliate, as the case may be, with respect to such entity's portion of the Negotiated FILOT Property in question, an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, or as FILOT payments pursuant to the Multi-County Park Act, as the case may be, together with interest on such deficiency as provided in Section 12-54-25(D) of the Code (a "Deficiency Payment").

(f)

(i) In the event that the Enhanced Investment FILOT Minimum Requirement is not satisfied by the end of the Enhanced Investment FILOT Compliance Period, but the Standard FILOT Minimum Requirement is nevertheless satisfied by the end of the Standard FILOT Compliance Period, then the Project shall continue to be eligible for Negotiated FILOT Payments as set forth in **Section 5.01** hereof, but such Negotiated FILOT Payments shall be determined with an applicable assessment ratio of 6%, retroactively and prospectively. In such event, and subject to the provisions of **Section 3.02(a)** hereof, there shall be due and payable from the Company and each other Sponsor or Sponsor Affiliate, as the case may be, with respect to its portion of Negotiated FILOT Property, an amount equal to the difference between the FILOT Payments theretofore made, after application of the Special Source Credits, and the amount of the FILOT Payments which would have otherwise been due if determined with an assessment ratio of 6%, after application of the Special Source Credits.

(ii) In the event that the Enhanced Investment FILOT Minimum Requirement is not satisfied by the end of the Enhanced Investment FILOT Compliance Period and the Standard FILOT Minimum Requirement is not satisfied by the end of the Standard FILOT Compliance Period, then all Negotiated FILOT Payments shall revert retroactively to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in paragraph (e) above, and a Deficiency Payment from each such owing entity shall be due and payable with respect to Negotiated FILOT Payments theretofore made. In the event that the aggregate investment in the Project does not exceed \$5,000,000 by the end of the Standard FILOT Compliance Period and any Sponsor or Sponsor Affiliate does not satisfy the Standard FILOT Minimum Requirement solely through its own direct investment in the Project, then the Negotiated FILOT Payments with respect to that portion of the Project owned by such Sponsor or Sponsor Affiliate shall revert retroactively to *ad valorem* taxes calculated as set forth in paragraph (e) above, and such Sponsor or Sponsor Affiliate shall owe a Deficiency Payment with respect to Negotiated FILOT Payments theretofore made as to such portion of the Project. To the extent necessary to collect a Deficiency Payment under this clause (ii) due to failure to satisfy the Standard FILOT Minimum Requirement, Section 12-44-140(D) of the Negotiated FILOT Act provides that any statute of limitations that might apply pursuant to Section 12-54-85 of the Code is suspended.

(iii) In the event that the Enhanced Investment FILOT Minimum Requirement is satisfied by the end of the Enhanced Investment FILOT Compliance Period, but following the Enhanced Investment FILOT Compliance Period, investment in the Project, without regard to depreciation or other diminution in value, falls below the lowest investment level set forth in the Enhanced Investment FILOT Minimum Requirement by which the Project has qualified as an “enhanced investment” pursuant to Section 12-44-30(7) of the Negotiated FILOT Act, so long as investment in the Project, without regard to depreciation, reassessment, or other diminution in value, maintains the investment level set forth in the Standard FILOT Minimum Requirement, then the Project shall continue to be eligible for Negotiated FILOT Payments set forth in **Section 5.01** hereof, but such Negotiated FILOT Payments shall be

determined with an applicable assessment ratio of 6%, prospectively, commencing with any Negotiated FILOT Payments due with respect to the first Property Tax Year following the Property Tax Year in which such deficiency occurs. In the event that the Enhanced Investment FILOT Minimum Requirement is not satisfied by the end of the Enhanced Investment FILOT Compliance Period, but the Project nevertheless continues to be eligible for Negotiated FILOT Payments pursuant to **Section 5.01** hereof, if following the Standard FILOT Compliance Period, investment in the Project, without regard to depreciation or other diminution in value, falls below the investment level set forth in the Standard FILOT Minimum Requirement, then the Project shall prospectively be subject to *ad valorem* taxes, or to FILOT payments pursuant to the Multi-County Park Act, as the case may be, calculated as set forth in paragraph (e) above, in accordance with Section 12-44-140(C) of the Negotiated FILOT Act commencing with any Negotiated FILOT Payments due with respect to Project property placed in service as of the end of the Property Tax Year in which such deficiency occurs.

(iv) In accordance with the provisions of **Sections 4.01(b)** and **6.02** hereof, except for Existing Property, the investment in all property utilized by the Company or any other Co-Investor at the Land, whether owned by the Company or any other Co-Investor outright or utilized by the Company or any other Co-Investor pursuant to any financing agreement or any lease or other arrangement with the Company or any other Co-Investor, which qualify as Negotiated FILOT Property shall be counted toward all investment obligations under this Agreement, including, to the extent permitted by law, investment obligations under the Negotiated FILOT Act.

(g) Except as otherwise set forth in this Agreement or as otherwise required by the Act, any amounts due to the County under this **Section 5.01** as a Deficiency Payment or other retroactive payment shall be paid within sixty (60) days following receipt by the Company or any other Sponsor or Sponsor Affiliate of notice from the County that such a Deficiency Payment or other retroactive payment is due from such entity.

The Company acknowledges that (i) the calculation of the annual Negotiated FILOT Payment due hereunder is a function of the Department of Revenue and is wholly dependent on the parties intended to receive benefits under this Agreement timely submitting the correct annual property tax returns to the Department of Revenue, (ii) the County has no responsibility for the submission of returns or the calculation of the annual Negotiated FILOT Payment, and (iii) failure by any party to timely submit the correct annual property tax return could lead to loss of all or a portion of the Negotiated FILOT benefits and other incentives provided by this Agreement.

Section 5.02. Statutory Lien. The parties acknowledge the County's right to receive Negotiated FILOT Payments hereunder and that the County is entitled to and shall have a statutory lien with respect to the Project pursuant to Section 12-44-90(E) of the Negotiated

FILOT Act and Title 12, Chapter 54 of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE VI

THIRD PARTY ARRANGEMENTS

Section 6.01. Conveyance of Liens and Interests; Assignment. The County agrees that the Company and each other Co-Investor may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or any other Co-Investor or operates such assets for the Company or any other Co-Investor or is leasing all or a portion of the Project in question from the Company or any other Co-Investor. In the event of any such transfer, lease, financing, or other transaction described above, the rights and interests of the Company or such other Co-Investor under this Agreement, including, without limitation, the benefits of the Negotiated FILOT and the Special Source Credits, with respect to any Project property so transferred, leased, financed, or otherwise affected shall be so transferred and preserved upon written approval of the County, which approval may take the form of a resolution or ordinance of the Council.

Subject to County consent when required under this **Section 6.01**, and at the expense of the Company or any such other Co-Investor, the County agrees to take such further action and execute such further agreements, documents, and instruments as may be reasonably required to effectuate the assumption by any such transferee of all or part of the rights of the Company or any other Co-Investor under this Agreement and/or any release of the Company or any other Co-Investor pursuant to this **Section 6.01**.

The Company acknowledges that any transfer of an interest under this Agreement or in the Negotiated FILOT Property may cause all or part of the Negotiated FILOT Property to become ineligible for a Negotiated FILOT or result in penalties under the Negotiated FILOT Act absent compliance by the Company or any such Co-Investor with the Transfer Provisions.

Section 6.02. Sponsors and Sponsor Affiliates. The Company may designate from time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Negotiated FILOT Act, which, in each case, must agree to be bound by the terms of this Agreement and must be approved by resolution of

the Council. The Company shall provide the County and the Department of Revenue with written notice of any Sponsor or Sponsor Affiliate designated pursuant to this **Section 6.02** within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service Negotiated FILOT Property to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Negotiated FILOT Act.

ARTICLE VII

TERM; TERMINATION

Section 7.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executes this Agreement, and ending at midnight on the later of (i) the day the last Negotiated FILOT Payment is made hereunder or (ii) the day that all Special Source Credits due from the County hereunder have been fully provided by the County.

Section 7.02. Termination. In addition to the termination rights of the County under **Section 8.02(a)** hereof, the County and the Company may jointly agree to terminate this Agreement at any time, or the Company, may, at its option, unilaterally terminate this Agreement at any time, with respect to all, or any portion, of the Project in which event the Project, or such portion of the Project, shall be subject to *ad valorem* taxes, or to FILOT payments under the Multi-County Park Act, as the case may be, from the date of termination. Notwithstanding termination of this Agreement, the County shall have the same rights to receive payment for any retroactive *ad valorem* taxes, Deficiency Payments, interest or penalties, and the same enforcement rights with respect to such obligations as it would have with respect to *ad valorem* taxes, and the County's rights arising under **Section 5.01** prior to the time of such termination shall survive any such termination.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default. Any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default by the Company or any Co-Investor (the "Defaulting Entity") but only with respect to such Defaulting Entity's rights, duties, and obligations contained herein:

(a) if default shall be made in the due and punctual payment of any Negotiated FILOT Payments, which default shall not have been cured within sixty (60) days following receipt of written notice of such default from the County;

(b) if default shall be made in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing **paragraph (a)**, and such default shall continue for ninety (90) days after the County shall have given the Defaulting Entity written notice of such default; provided, the County may, in its discretion, grant the Defaulting Entity a longer period of time as necessary to cure such default if the Defaulting Entity proceeds with due diligence to cure such default; provided however, that no Event of Default shall exist under this Agreement during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Defaulting Entity has contested the occurrence of such default; or

(c) if a Cessation of Operations occurs after the Enhanced Investment FILOT Compliance Period. For purposes of this Agreement, a “Cessation of Operations” means a publicly announced closure made by the Company of the Company’s facilities in the County, including, but not limited to, the Project.

Notwithstanding anything herein to the contrary, failure to meet any investment or job creation requirements, thresholds, or levels set forth in this Agreement shall not be deemed to be an Event of Default under this Agreement, but may terminate certain benefits hereunder or obligate the Company or other Co-Investors, as the case may be, to make certain additional payments to the County, all as set forth in **Section 5.01(f)** hereof.

Section 8.02. Remedies on Event of Default. Upon the occurrence of any Event of Default, the following remedies may be exercised by the County only as to the Defaulting Entity:

(a) terminate this Agreement by delivery of written notice to the Defaulting Entity not less than thirty (30) days prior to the termination date specified therein;

(b) have access to and inspect, examine, and make copies of the books and , records of the Defaulting Entity pertaining to the construction, acquisition, or maintenance of the Project or calculation of the Negotiated FILOT as provided in **Section 4.06** hereof;

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amount then due or enforce the County’s rights hereunder, it being the express intent of the parties that the County, without limitation, shall have the same remedies available by law to collect Negotiated FILOT Payments as if they were delinquent *ad valorem* tax payments, including execution upon the lien referred to in **Section 5.02** hereof.

Section 8.03. Defaulted Payments. In the event the Company or any other Co-Investor should fail to make any of the payments required to be made by such entity under this Agreement, the item or installment so in default shall continue as an obligation of such entity until the amount in default shall have been fully paid. If any such default relates to its

obligations to make Negotiated FILOT Payments hereunder, such entity shall pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, all as provided in Section 12-44-90 of the Negotiated FILOT Act.

Section 8.04. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company and any other Co-Investor may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for *mandamus* or specific performance.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company or any other Co-Investor provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers, and remedies are sought to be enforced; and the exercise by the County or by the Company or any other Co-Investor of any one or more of the rights, powers, or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company or any other Co-Investor of any or all such other rights, powers, or remedies.

Section 9.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, any Co-Investor hereof, and their respective successors and assigns as permitted hereunder; provided, however, that notwithstanding anything herein to the contrary, the County may not assign any or all of its rights, duties, and obligations in, to, and under this Agreement without the written consent of the Company, which consent may be provided by the Company in its sole discretion.

Section 9.03. Notices; Demands; Requests. All notices, demands, and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid, or via facsimile transmission or reputable courier service, to the following persons and addresses or to such other persons and places as may be designated in writing by such party.

(a) if to the County:

Sumter County
Attn.: County Administrator

13 E. Canal Street
Sumter, South Carolina 29150
Phone: (803) 436-2102

(b) with a copy (which shall not constitute notice) to:

Johnathan W. Bryan, Esquire
Sumter County Attorney
13 E. Canal Street
Sumter, South Carolina 29150
Phone: (803) 774-3877

(c) with a copy (which shall not constitute notice) to:

Ray Jones, Esquire
Parker Poe Adams & Bernstein
1221 Main Street, Suite 1100
Columbia, South Carolina 29201
Phone: (803) 253-8917

(d) As to the Company:

(e) with a copy (which shall not constitute notice) to:

Tushar V. Chikhliker, Esq.
Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
P.O. Drawer 2426
Columbia, South Carolina 29202
Phone: (803) 540-2188

Section 9.04. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State. To the extent of any conflict between the provisions of this Agreement and the Act, the Act controls.

Section 9.05. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other and supersedes all prior and contemporaneous discussions of the parties, whether oral or written, and neither party hereto has made or shall be bound by any agreement or any warranty or representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof. Unless as otherwise expressly set forth herein, this Agreement will not confer any rights or remedies upon any Person other than the parties hereto and their respective successors and assigns as permitted hereunder.

Section 9.06. Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 9.07. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 9.08. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 9.09. Amendments. Subject to the limitations set forth in Section 12-44-40(K)(2) of the Negotiated FILOT Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by both parties.

Section 9.10. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 9.11. Further Proceedings. The parties intend any action to be taken hereinafter by the County pursuant to the express provisions of this Agreement may be undertaken by the Chairman of the Council without necessity of further proceedings. To the extent additional proceedings are required by law, however, the County agrees to undertake all such steps as may be reasonably required or appropriate to effectuate the intent of this Agreement.

Section 9.12. Indemnification Covenants.

(a) Except as provided in paragraph (b) below, the Company shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “Indemnified Party”) harmless against and from all third party claims arising from the County’s execution of this Agreement, performance of the County’s obligations under this Agreement or the

administration of its duties pursuant to this Agreement, or otherwise by virtue of the County having entered into this Agreement. The Company shall indemnify, defend and save the County harmless from and against all reasonable costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County, the Company shall defend it in any such action, prosecution or proceeding with legal counsel of the Company's choice, which is acceptable to the County (the approval of which shall not be unreasonably withheld or delayed); and whose purported representation of the County in such matters would not present an unwaivable conflict of interest under the South Carolina Rules of Professional Conduct, the waiveability of which shall be determined by the County, in its reasonable discretion; provided, however, that the Company shall be entitled to manage and control the defense of or respond to any claim, action, prosecution, or proceeding, for itself and any Indemnified Party; provided the Company is not entitled to settle any matter without the consent of that Indemnified Party (other than a settlement for money damages only that will be paid in full by the Company). To the extent any Indemnified Party desires to use separate legal counsel for any reason, that Indemnified Party is responsible for its independent legal costs and expenses, in whole.

(b) Notwithstanding anything herein to the contrary, the Company is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Agreement, performance of the County's obligations under this Agreement, or the administration of its duties under this Agreement, or otherwise by virtue of the County having entered into this Agreement; or (ii) resulting from that Indemnified Party's own negligence, bad faith, fraud, deceit, or willful misconduct or breach of this Agreement.

(c) An Indemnified Party may not avail itself of the indemnification of costs provided in this Section unless it provides the Company with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Company notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

Section 9.13. No Liability of County Personnel. All covenants, stipulations, promises, agreements and obligations of the County contained in this Agreement are binding on members of the Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys under this Agreement may be had against any member of the Council or any elected or appointed official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Agreement or for any claims based on this Agreement may be had against any member of Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity

Section 9.14. Limitation of Liability. The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement. Notwithstanding anything in this Agreement to the contrary, any financial obligation the County may incur under this Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

[Execution Pages to Follow]

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Fee in Lieu of Tax and Incentive Agreement to be effective as of the date first written above.

SUMTER COUNTY, SOUTH CAROLINA

By: _____
James T. McCain, Jr., Chairman, County Council,
Sumter County, South Carolina

[SEAL]

ATTEST:

By: _____
Mary W. Blanding, Clerk to County Council,
Sumter County, South Carolina

PROJECT BULLDOG

By: _____
Name: _____
Its: _____

EXHIBIT A
LAND DESCRIPTION

[TO BE INSERTED]

EXHIBIT B
TRANSFERRED LAND DESCRIPTION

[TO BE INSERTED]

**SUMTER COUNTY
ORDINANCE NO. 18-886**

AN ORDINANCE (1) AMENDING THE MASTER AGREEMENT GOVERNING THE SUMTER-LEE INDUSTRIAL PARK DATED DECEMBER 31, 2012 BETWEEN LEE COUNTY, SOUTH CAROLINA AND SUMTER COUNTY, SOUTH CAROLINA SO AS TO ENLARGE THE BOUNDARIES OF THE PARK TO INCLUDE CERTAIN PROPERTY OWNED AND/OR OPERATED BY A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT BULLDOG; AND (2) AUTHORIZING OTHER MATTERS RELATED THERETO.

WHEREAS, Sumter County, South Carolina, a political subdivision of the State of South Carolina (“Sumter County”), acting by and through its County Council (the “Sumter County Council”), and Lee County, South Carolina, a political subdivision of the State of South Carolina (“Lee County”), acting by and through its County Council (the “~~Kershaw-Lee~~ County Council”), are authorized pursuant to Article VIII, Section 13(D) of the Constitution of the State of South Carolina and Title 4, Chapter 1 of the Code of Laws of the State of South Carolina 1976, as amended, and specifically Section 4-1-170 thereof (collectively, the “Park Act”), to develop jointly an industrial or business park within the geographical boundaries of one or more of the member counties; and

WHEREAS, pursuant to the Park Act, ~~Ordinance No. 18-886 duly enacted by Sumter County on _____, 2018 (the “Sumter Park Ordinance”), and Ordinance No. _____ duly enacted by Lee County on _____, 2018 (together with the Sumter Park Ordinance, collectively, the “Ordinances”)~~ Sumter County and Lee County previously entered into that certain Master Agreement Governing the Sumter-Lee Industrial Park dated December 31, 2012 (the “Park Agreement”), whereby they agreed to develop a multi-county industrial/business park including within its boundaries property located in Sumter County and Lee County (the “Park”); and

WHEREAS, pursuant to Section 1.01 of the Park Agreement, Sumter County is authorized to unilaterally increase the Park’s boundaries, from time to time by adopting an approving ordinance approving such increase in the Park’s boundaries; and

WHEREAS, Sumter County and Lee County desire to amend the Park Agreement to enlarge the boundaries of the Park to include certain property located in Sumter County now or hereafter owned and/or operated by a company identified for the time being as Project Bulldog, as identified and described on Exhibit A hereto (the “Project Bulldog Property”).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL, as follows:

SECTION I. Sumter County hereby approves the amendment of the Park Agreement, and specifically Exhibit A-2 thereto, to enlarge the boundaries of the Park to include the Project Bulldog Property.

SECTION II. 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, unconstitutional, or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

SECTION III. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall be effective after third and final reading.

[End of Ordinance]

Enacted and approved, in meeting duly assembled, this ____ day of _____, 2018.

SUMTER COUNTY, SOUTH CAROLINA

By: _____
James T. McCain, Jr., Chairman, County Council,
Sumter County, South Carolina

[SEAL]

Attest:

By: _____
Mary W. Blanding, Clerk to County Council,
Sumter County, South Carolina

First Reading: April 24, 2018
Second Reading: May ~~8~~22, 2018
Public Hearing: _____, June 12, 2018
Third Reading: _____, June 12, 2018

**EXHIBIT A
LAND DESCRIPTION**

PROJECT BULLDOG PROPERTY

[INSERT LEGAL DESCRIPTION]