

Council Members

District 1: Terry Graham
District 2: Charlene McGriff
District 3: Billy Mosteller, Secretary
District 4: Jose Luis
District 5: Steve Harper, Chair
District 6: Bryant Neal
District 7: Brian Carnes, Vice Chair

**County Administrator**

Dennis E. Marstall

County Attorney

Ginny L. Merck-Dupont

Clerk to Council

Sherrie Simpson

December 9, 2024

6:00 PM

LANCASTER COUNTY COUNCIL

COUNTY COUNCIL CHAMBERS, COUNTY ADMINISTRATION
BUILDING, 101 NORTH MAIN STREET, LANCASTER, SC 29720

MINUTES

Council Members Present: Neal, Carnes, Harper, Mosteller, McGriff, Graham, Luis.

Staff Members/Others Present: Dennis Marstall, County Administrator; Ginny Merck-Dupont, County Attorney; Sherrie Simpson, Clerk to Council; Sabrena Harris, Chief Financial Officer; Jamie Privuznak, Budget Director; Brian Fulk, Economic Development Director; April Williams, Planning Director; the press; various elected officials; various Department Heads; various employees; and citizens.

A quorum of Lancaster County Council was present for the meeting. The following press were notified of the meeting by e-mail in accordance with the Freedom of Information Act: *The Lancaster News*, *Kershaw News Era*, *The Rock Hill Herald*, Cable News 2, Channel 9 and the local government channel. The agenda was posted in the lobby of the County Administration Building and also on the County website the required length of time. The PowerPoint presentation utilized during the meeting is attached to the written minutes in the Clerk to Council's office.

Call to Order Regular Meeting - Chairman Steve Harper

Chairman Steve Harper called the regular meeting of County Council to order at approximately 6:00 p.m.

Welcome and Recognition - Chairman Steve Harper

Chairman Steve Harper welcomed everyone to the meeting.

Pledge of Allegiance and Invocation - Council Member Terry Graham

Terry Graham, along with his grandchildren, led the Pledge of the Allegiance to the American Flag, and Mr. Graham delivered the Invocation.

Approval of the Agenda

Brian Carnes moved to approve the Agenda. Seconded by Charlene McGriff. The motion Passed by a vote of 7-0.

Citizens Comments

The following citizens signed up for and spoke during Citizen Comments:

1. John Baker, Lancaster, SC, spoke regarding a moratorium on development in Lancaster County and expressed concerns related to the clear-cutting of trees.

The following citizens submitted electronic, written comments for Citizen Comments, of which Council received physical copies at their seats and which were acknowledged during the meeting by Sherrie Simpson, Clerk to Council:

1. Kelly Burger, Lancaster, SC, wrote in regarding the Edgewater Development and requested a stop on all building in the development until fire code related issues were addressed. A copy of her comments is attached as Schedule A.

Special Presentations

a. Recognition of Councilman Terry Graham for Eight Years of Service - Presented by Chairman Steve Harper

Steve Harper presented Terry Graham with two retirement gifts and recognized Mr. Graham's eight years of service on County Council.

b. Recognition of Employee of the Quarter - 2024 - 4th Quarter - Presented by County Administrator Dennis Marstall

Dennis Marstall presented certificates for the Employee of the 4th Quarter nominees and announced that the Employee of the 4th Quarter winner for the General Services division was Mary Ann Hudson, the Voter Registration Director, and the winner for Public Services division was Michele Polston-Rogers, with the Emergency Medical Services (EMS) Department.

Steve Harper recognized Debbie Wright, with the Building Department, for her upcoming retirement.

Consent Agenda

Billy Mosteller moved to approve Consent Agenda Item **7a.**, **7b.**, **7c.**, **7d.**, and **7e.** [which are the same as Item **a.**, **b.**, **c.**, **d.**, and **e.** listed below]. Seconded by Charlene McGriff.

Jose Luis made a motion to remove Item **7c.** from the Consent Agenda. Seconded by Terry Graham. The motion Passed by a vote of 7-0. Steve Harper stated that the Item would be moved to the end of the Non-Consent Agenda, and would be identified as Item **8f.**

There was no further discussion from Council. The motion to approve the Consent Agenda Items **7a.**, **7b.**, **7d.**, and **7e.** Passed, as amended, by a vote of 7-0.

- a. Approval of Minutes from the November 13, 2024, County Council Committee of the Whole Meeting**
- b. Approval of Minutes from the November 25, 2024, County Council Regular Meeting**
- d. 3rd Reading of Ordinance 2024-1941**
Ordinance Title: An Ordinance To Disestablish/Dissolve The Animal Shelter

Advisory Board And Remove The Duties And Responsibilities Of Those Persons And Organizations Associated Therewith. - Passed 6-0 at the November 12, 2024, County Council Meeting (Terry Graham Absent). Passed 6-0 at the November 25, 2024, County Council Meeting (Charlene McGriff Absent). - Dennis Marstall

e. 3rd Reading of Ordinance 2024-1942

Ordinance Title: An Ordinance To Amend The Lancaster County Code, Chapter 2, Article XI, Division 5, Section 2-372 Related To The Composition Of The Lancaster County Community Relations Commission. - Passed 6-0 at the November 12, 2024, County Council Meeting (Terry Graham Absent). Passed 6-0 at the November 25, 2024, County Council Meeting (Charlene McGriff Absent). - Dennis Marstall

Non-Consent Agenda

a. Public Hearing and 3rd Reading of Ordinance 2024-1933

Ordinance Title: To Authorize The Acquisition Of An Approximately 0.25 Acre Parcel Of Real Property Located At 305 N. Catawba Street (TMS# 0068P-0C-010.00); To Authorize And Approve The Execution And Delivery Of An Amendment To Fee Agreement By And Between Lancaster County, South Carolina, And Founders Federal Credit Union; And To Provide For Other Matters Related Thereto. - Passed 6-0 at the November 12, 2024, County Council Meeting (Terry Graham Absent). Passed 6-0 at the November 25, 2024, County Council Meeting (Charlene McGriff Absent). - Dennis Marstall / Brian Fulk

Charlene McGriff moved to approve the 3rd Reading of Ordinance 2024-1933. Seconded by Jose Luis.

Dennis Marstall noted no changes since the 2nd Reading of the Ordinance.

Steve Harper opened the Public Hearing for Ordinance 2024-1933 at approximately 6:26 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 19 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:26 p.m.

There was no discussion from Council. The 3rd Reading of Ordinance 2024-1933 Passed by a vote of 7-0.

b. Public Hearing and 3rd Reading of Ordinance 2024-1939

Ordinance Title: To Authorize And Approve The Execution And Delivery Of An Amended And Restated Fee In Lieu Of Tax Agreement By And Between Lancaster County, South Carolina And Project Maple; To Amend Section 6 Of Ordinance No. 2013-1246, As Previously Amended By Ordinance No. 2014-1289, Relating To The Distribution Of Revenue To Be Received From The Multi-County Park Created For Project Maple; And To Provide For Other Matters Related Thereto. - Passed 6-0 at the November 12, 2024, County Council Meeting (Terry Graham Absent). Passed 6-0 at the November 25, 2024, County Council Meeting (Charlene McGriff Absent). - Brian Fulk

Charlene McGriff moved to approve the 3rd Reading of Ordinance 2024-1939. Seconded by Brian Carnes.

Steve Harper opened the Public Hearing for Ordinance 2024-1939 at approximately 6:27 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 19 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:28 p.m.

Brian Fulk stated that the company identified as Project Maple was Keer America and Mr. Fulk briefly reviewed the Fee In Lieu of Tax (FILOT) Agreement. A copy of Ordinance 2024-1939 and its associated amended and restated FILOT identifying the company as Keer America Corporation provided to Council is attached as Schedule B.

There was no discussion from Council. The 3rd Reading of Ordinance 2024-1939 Passed by a vote of 7-0.

c. Public Hearing and 3rd Reading of Ordinance 2024-1943

Ordinance Title: An Ordinance To Amend Ordinance No. 2024-1910, Relating To The Appropriation Of Funds And The Approval Of A Detailed Budget For Lancaster County For The Fiscal Year Beginning July 1, 2024, And Ending June 30, 2025 (FY 2024-2025), To Further Provide For Revenues And Expenditures During The Fiscal Year; And To Provide For Matters Related Thereto. - Passed 6-0 at the November 12, 2024, County Council Meeting (Terry Graham Absent). Passed 6-0 at the November 25, 2024, County Council Meeting (Charlene McGriff Absent). - Sabrena Harris

Jose Luis moved to approve the 3rd Reading of Ordinance 2024-1943. Seconded by Brian Carnes.

Steve Harper opened the Public Hearing for Ordinance 2024-1943 at approximately 6:30 p.m. He noted that no one signed up to speak at the Public Hearing for the Ordinance. There were approximately 19 citizens, including staff members, in attendance during the Public Hearing for this Ordinance. The following speakers came forward to make comments or sent in written comments regarding the Ordinance: None. Steve Harper closed the Public Hearing at approximately 6:30 p.m.

Sabrena Harris reviewed the three proposed budget amendments in the Ordinance, and noted no changes since the 2nd Reading.

There was no discussion from Council. The 3rd Reading of Ordinance 2024-1943 Passed by a vote of 7-0.

d. 3rd Reading of Ordinance 2024-1931

Ordinance Title: An Ordinance To Amend The Unified Development Ordinance ("UDO") Chapters 2 And 5 To Amend Regulations Relating To Shooting Ranges - Planning Department Case Number: TA-2024-2122. The Planning Commission recommended approval by unanimous vote of 7-0. Passed 6-0 at the November 12, 2024, County Council Meeting (Terry Graham Absent). Passed 6-0 at the November 25, 2024, County Council Meeting (Charlene McGriff Absent). - Allison Hardin

Brian Carnes moved to approve the 3rd Reading of Ordinance 2024-1931. Seconded by Bryant Neal.

April Williams reviewed the amendment via the County's PowerPoint presentation.

There was no discussion from Council. The 3rd Reading of Ordinance 2024-1931 Passed by a vote of 7-0.

e. 3rd Reading of Ordinance 2024-1944

Ordinance Title: An Ordinance To Amend Chapter 25 Of The Lancaster County Code To Provide For A Board Of Zoning Appeals; And To Amend Ordinance 2016-1422 Et Seq Relating To The Board Of Zoning Appeals. - Passed 5-1 at the November 12, 2024, County Council Meeting (Jose Luis Opposed; Terry Graham Absent). Passed 5-1 at the November 25, 2024, County Council Meeting (Jose Luis Opposed; Charlene McGriff Absent). - Allison Hardin

Charlene McGriff moved to approve the 3rd Reading of Ordinance 2024-1944. Seconded by Billy Mosteller.

April Williams reviewed the amendment via the County's PowerPoint presentation, and noted that no changes had been made since the 2nd Reading of Ordinance 2024-1944. Terry Graham questioned the number of Board of Zoning Appeals (BZA) meetings that had been canceled due to lack of a quorum. Jose Luis questioned if members could be removed for cause, and Ginny Merck-Dupont explained that state statute states that members *may* be removed for cause. Mr. Luis questioned if the County received an Attorney General (AG) opinion on the matter, and Ms. Merck-Dupont explained that there were no published AG opinions regarding similar scenarios. Charlene McGriff called for the vote, and Steve Harper stated that he would allow each Council member to speak one more time. Mr. Luis expressed legal concerns regarding the reconstitution of the BZA.

There was no further discussion from Council. The 3rd Reading of Ordinance 2024-1944 Passed by a vote of 4-3; Ayes: Neal, Harper, Mosteller, McGriff; Nays: Carnes, Graham, Luis.

c. 3rd Reading of Ordinance 2024-1940

Ordinance Title: An Ordinance To Amend Chapter 7 Of The Lancaster County Code To Reference The Fire Marshal As A Building Official In The County Code, And To Provide For Other Updates Related Thereto. - Passed 4-2 at the November 12, 2024, County Council Meeting (Brian Carnes and Jose Luis Opposed; Terry Graham Absent). Passed 6-0 at the November 25, 2024, County Council Meeting (Charlene McGriff Absent). - Allison Hardin

The 3rd Reading of Ordinance 2024-1940 was removed from the Consent Agenda and moved to the Non-Consent Agenda and was identified as Item 8f.

Charlene McGriff moved to approve the 3rd Reading of Ordinance 2024-1940. Seconded by Steve Harper.

April Williams explained that the purpose of the proposed amendment was to merge the Fire Code of Appeals Board and Construction Board of Appeals Board into the International Code of Appeals Board, and to add the Lancaster County Fire Marshal as a Building Official on the Board.

There was no discussion from Council. The 3rd Reading of Ordinance 2024-1940 Passed by a

vote of 4-3; Ayes: Neal, Harper, Mosteller, McGriff; Nays: Carnes, Graham, Luis.

Discussion and Action Items

a. Approval of an Advisor Appointment to the Historical Commission

- **Patricia H. Clancy as an Advisor Appointment to the Historical Commission to fill an unexpired term that would end on 06/30/2025**

Charlene McGriff moved to approve the appointment of Patricia H. Clancy to the Historical Commission. Seconded by Billy Mosteller.

There was no discussion from Council. The motion Passed by a vote of 7-0.

Status of Items Tabled, Recommitted, Deferred or Held

There was no discussion of any items tabled, recommitted, deferred or held.

Executive Session

a. One Item:

- 1. Receipt of legal advice subject to the attorney-client privilege regarding an update or cybersecurity.***

Steve Harper stated that he needed a motion to go into Executive Session for the receipt of legal advice subject to the attorney-client privilege regarding an update on cybersecurity and to invite in the Chief Information Officer and Council Member Elect Stuart Graham to discuss the item. Bryant Neal stated that he so moved. Seconded by Terry Graham. The motion to go into Executive Session Passed by a vote of 7-0. At approximately 6:54 p.m., Council went into Executive Session.

Items Requiring a Vote Following Executive Session

Council came out of Executive Session and Steve Harper called the Council meeting back to order at approximately 7:20 p.m. Jose Luis moved to come out of Executive Session. Seconded by Charlene McGriff. The motion to come out of Executive Session Passed by a vote of 7-0.

Upon returning to open session, Dennis Marstall stated that Council met in Executive Session for the receipt of legal advice subject to the attorney-client privilege regarding an update on cybersecurity. He stated that during Executive Session, no motions were made, and no votes were taken.

Adjournment

Terry Graham moved to adjourn the Council meeting. Seconded by Jose Luis. The motion to adjourn Passed by a vote of 7-0.

There being no further business to discuss, the regular meeting of Council adjourned at approximately 7:21 p.m.

Respectfully Submitted:

Lauren Hill

Lauren Hill
Deputy Clerk to Council

Approved by Council on January 13, 2025

Bryant Neal

Bryant Neal, Secretary

Sherrie Simpson

Schedule A

From: Jennifer Bryan <jbryan@lancastercountysc.gov>
Sent: Thursday, December 5, 2024 9:53 AM
To: Sherrie Simpson
Cc: Kelly Burger
Subject: FW: True Homes

Sherrie,
Ms. Burger has asked that this comment be submitted to Council during Citizens Comments on December 9, 2024.



Jennifer Bryan, Planning Technician
Planning

Lancaster County Government
P.O. Box 1809
Lancaster, SC 29720

P: (803) 285-6005
jbryan@lancastercountysc.gov

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-----Original Message-----

From: Kelly Burger <kellytburger@icloud.com>
Sent: Tuesday, December 3, 2024 6:08 PM
To: Jennifer Bryan <jbryan@lancastercountysc.gov>
Subject: True Homes

THIS IS AN EXTERNAL E-MAIL — Use caution when clicking on links as they could open malicious websites.
—IT Helpdesk, lancastercountysc.supportsystem.com<<https://lancastercountysc.supportsystem.com>>

As a home owner in Edgewater again I am write to voice my concerns with the danger that the planning commission and True Homes has put the families in by not following fire codes. You are required to have at least two ways in and out of the community. Your hiding behind the 1998 UDO should not stop your responsibility to protect the taxes payers of this community.

All building should be placed under a stoppage till the entrance and exit roads are widen to fire code and the second entrance and exit are completed. True Homes has proven themselves to not be trusted. Hitting them in their greedy pockets is going to be the only way to get actions out of them. I would also like to have the chairman of the planning commission excuse himself from any development plans involving True Homes. His obvious bias towards True Homes is causing dangers to be overlooked.

Thank you for your time,
Miss Kelly Burger

Schedule B

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

ORDINANCE 2024-1939

TO AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF AN AMENDED AND RESTATED FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN LANCASTER COUNTY, SOUTH CAROLINA AND KEER AMERICA CORPORATION; TO AMEND SECTION 6 OF ORDINANCE NO. 2013-1246, AS PREVIOUSLY AMENDED BY ORDINANCE NO. 2014-1289, RELATING TO THE DISTRIBUTION OF REVENUE TO BE RECEIVED FROM THE MULTI-COUNTY PARK CREATED FOR KEER AMERICA CORPORATION; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations

The Lancaster County Council finds that:

(a) Lancaster 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"), and specifically Title 12, Chapter 44 of the Code (the "Fee in Lieu of Tax Simplification Act" or "FILOT Act"), to enter into agreements with business and industry, to offer certain privileges, benefits, and incentives as inducements for economic development within the County whereby the industry would pay fees in lieu of *ad valorem* taxes ("FILOT Payments") with respect to qualified business and industrial projects, through all such powers the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain and expand in the State and thus utilize and employ the workforce, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally.

(b) The County, acting by and through its Council, is authorized and empowered to establish, in conjunction with one or more other counties, multicounty parks (each, an "MCP") pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina, and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code, as amended (the "MCP Act") to further the investment of capital and the creation of jobs in the County, and to facilitate the provision of special source revenue credits.

(c) Section 12-44-70 of the FILOT Act, Section 4-1-175 of the MCP Act and Section 4-29-68 of the Code authorizes the Council to provide special source revenue credits ("SSRCs") that are applied against FILOT Payments made pursuant to the FILOT Act and MCP Act to reimburse a project for the costs of designing, acquiring, constructing, improving, or expanding, among other things, (i) infrastructure serving the project, or (ii) 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.

(d) The County and Keer America Corporation (the "Company") previously entered into a Fee In Lieu of Tax Agreement dated as of December 9, 2013 (the "Prior FILOT Agreement") wherein certain economic development incentives, including payment of a FILOT, were made available to the Company

pursuant to the Act in connection with the Company's acquisition, installation, and construction of land, improvements, fixtures, machinery, equipment, furnishings and/or other real and/or tangible personal property to constitute a facility in the County for the manufacture of textile and related products (collectively, the "Project").

(e) The incentives provided for in the Prior FILOT Agreement included: (a) calculation of FILOT Payments thereunder based on an assessment ratio of four percent (4%); (b) FILOT Payments for forty (40) consecutive years with respect to each Project Increment; and (c) an Initial Investment Period ending December 31 of the eighth (8th) year after the first year in which any component of the Project was first placed in service (i.e., December 31, 2023). Such incentives were dependent on the Company's compliance with the Enhanced Investment Minimum Requirement which included investment in the Project of at least \$150,000,000 by the end of the Initial Investment Period. The Company failed to comply with the Enhanced Investment Minimum Requirement and, accordingly, the provisions of Section 5.02(d) of the Prior FILOT Agreement became effective, which such provisions include: (i) prospective calculation of FILOT Payments based on an assessment ratio of six percent (6%); (ii) FILOT Payments for thirty (30) consecutive years with respect to each Project Increment; (iii) the Investment Period shall be deemed to end on December 31 of the fifth (5th) year after the first year in which any component of the Project was first placed in service (i.e., December 31, 2020); and (iv) the Company shall make payment to the County in an amount equal to the difference between the FILOT Payments theretofore made by the Company with respect to the Project and the FILOT Payments which would have been theretofore due from the Company with respect to the Project had the assessment ratio been applied at six percent (6%), which payment is be due to the County within ninety (90) days after December 31, 2023. Capitalized terms used in this paragraph not otherwise defined herein have the meanings ascribed thereto in the Prior FILOT Agreement.

(f) Section 12-44-40(K) of the FILOT Act permits a fee agreement to be amended or terminated and replaced with regard to all matters except such amendment or replacement of a fee agreement must not be used to lower the millage rate, discount rate, assessment ratio, or, with certain exceptions, increase the term of the agreement.

(g) The County and the Company have held discussions regarding the Project, the recalculation of prior FILOT Payments and payment of such difference to the County, the calculation of future FILOT Payments, the provision of certain SSRCs to the Company, and other matters relating to the foregoing. The Company has requested that the County enter into an Amended and Restated Fee In Lieu of Tax Agreement with the Company in substantially the form attached to this ordinance as Exhibit A (the "Amended and Restated FILOT Agreement") pursuant to the Act in order to provide for certain FILOT Payment and SSRC incentives under the FILOT Act and the MCP Act, and to provide for the payment to the County of certain FILOT incentives heretofore received by the Company.

(h) It is the purpose of this ordinance to effectuate the approval of the Amended and Restated FILOT Agreement, and to provide for certain amendments to the distribution of MCP revenues received and retained by the County in connection with the MCP in which the Project is located.

Section 2. Statutory Findings

Council makes the following additional findings:

- (a) The Project is and will continue to constitute a "project" as referred to and defined in the FILOT Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act.

- (b) The Project and the FILOT Payments are beneficial to the County, and the County has evaluated the Project based on all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.
- (c) The Project is anticipated to, and will continue to, benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Project, *i.e.*, economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the maintenance of the Project within the County and State is of paramount importance.
- (g) The benefits of the Project to the public are and will continue to be greater than the costs to the public.

Section 3. Approval of Second Amendment

The form, terms, and provisions of the Amended and Restated FILOT Agreement attached to this ordinance as Exhibit A, are authorized, ratified and approved, and all the provisions, terms, and conditions thereof are authorized, ratified and approved and incorporated herein by reference as if the Amended and Restated FILOT Agreement were set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute the Amended and Restated FILOT Agreement in the name of and on behalf of the County, and thereupon to cause the Amended and Restated FILOT Agreement to be delivered to the Company and performed by the County. The Amended and Restated FILOT Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the official or officials of the County executing the same, upon the advice of counsel to the County, each such official's execution thereof to constitute conclusive evidence of such official's approval of any and all changes or revisions therein from the form of the Amended and Restated FILOT Agreement attached to this ordinance.

Section 4. Distribution of Park Revenues

Section 6 of Ordinance No. 2013-1246, as previously amended by Ordinance No. 2014-1289, is amended to read:

“(a) Revenues generated from industries or businesses located in the Lancaster County portion of the Park to be retained by Lancaster County shall be distributed within Lancaster County in accordance with this subsection:

- (1) First, unless Lancaster County elects to pay or credit the same from only those revenues which Lancaster County would otherwise be entitled to receive as provided under item (4) below, to pay annual debt service on any special source revenues bonds issued by Lancaster County pursuant to, or to be utilized as a credit in the manner provided in, Section 4-1-175, Code of Laws of South Carolina 1976, as amended;

(2) Second, at the option of Lancaster County, to reimburse Lancaster County for any expenses incurred by it in the administration, development, operation, maintenance and promotion of the Park or the industries and businesses located therein or for other economic development purposes in Lancaster County;

(3) Third, seven percent (7%) to the Lancaster County Economic Development Fund created pursuant to Ordinance No. 2014-1260; and

(4) Fourth, the remaining balance to those taxing entities in which the property is located, in the same manner and proportion that the millage levied for the taxing entities would be distributed if the property were taxable but without regard to exemptions otherwise available pursuant to Section 12-37-220, Code of Laws of South Carolina 1976, as amended, for that year.

(b) Notwithstanding any other provision of this section:

(1) all taxing entities which overlap the applicable properties within the Park shall receive at least some portion of the revenues generated from such properties; and

(2) all revenues receivable by a taxing entity in a fiscal year shall be allocated to operations and maintenance and to debt service as determined by the governing body of the taxing entity.

(c) Revenues generated from industries or businesses located in the Chesterfield County portion of the Park shall be retained by Lancaster County.”

Section 5. Authority to Act

The Council Chair, Council Secretary, Clerk to County, County Administrator, County Attorney and all other appropriate officials of the County are (and each acting individually is) hereby authorized, empowered, and directed to take such actions and to execute such agreements, certificates, or other documents as may be necessary to effectuate the purposes of this ordinance, and the performance of all obligations of the County under and pursuant to the Amended and Restated FILOT Agreement.

Section 6. Severability

If a section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion is deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. Conflicting Provisions

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

Section 8. Effective Date

This ordinance is effective upon third reading.

[Signatures follow on next page]

AND IT IS SO ORDAINED

Dated this 9th day of December, 2024.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

First Reading: November 12, 2024

Second Reading: November 25, 2024

Third Reading: December 9, 2024

Public Hearing: December 9, 2024

Approved as to form:

Ginny L. Merck-Dupont, County Attorney

Exhibit A to Ordinance 2024-1939

AMENDED AND RESTATED FEE IN LIEU OF TAX AGREEMENT

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

AMENDED AND RESTATED FEE IN LIEU OF TAX AGREEMENT

by and between

LANCASTER COUNTY, SOUTH CAROLINA,

and

KEER AMERICA CORPORATION

Dated as of December 1, 2024

NOTICE: THIS AGREEMENT INCLUDES REPORTING REQUIREMENTS TO BE MADE BY KEER AMERICA CORPORATION INCLUDING, BUT NOT LIMITED TO, THE REQUIREMENTS SET FORTH IN SECTION 4.02 HEREIN.

SUMMARY OF CERTAIN REPORTING REQUIREMENTS

- Each year during the Term, the Company shall deliver, in the manner set forth in **Section 4.02(e)**, to the County Auditor and the County Director of Economic Development a copy of any property tax form or return it files with the South Carolina Department of Revenue with respect to the Project within five (5) days of delivery thereof to the South Carolina Department of Revenue. The County and the Company expect that such tax forms or returns may include, but not be limited to:

- (i) the South Carolina Department of Revenue Form PT-443 which, under current laws and regulations must be filed within thirty (30) days of the execution of a “fee agreement” with the South Carolina Department of Revenue, the county auditors of the County and Multi-County Park partner county, and the county assessors of the County and the Multi-County Park partner county; and
- (ii) the South Carolina Department of Revenue Form PT-300 and any applicable schedules thereto (or such successor forms and schedules as may be promulgated by the South Carolina Department of Revenue from time to time), which such form, under current laws and regulations, and subject to certain exceptions, must be filed with the South Carolina Department of Revenue by April 30th of each year (such date being the last day of the fourth month following the Company’s closing date for income tax purposes).

- During the Term, the Sponsor shall deliver to the County Auditor and the County Director of Economic Development on or before each May 31 following the end of a property tax year, beginning with May 31, 2025, the annual investment and jobs information with respect to the Company contained in **Exhibit B** attached hereto.

- Information, returns, certifications or other reports to be provided to the County Auditor shall be in writing and delivered either:

- (i) by trackable mail or delivery service to the County Auditor, addressed as follows:

Lancaster County, South Carolina
Attn.: County Auditor
P.O. Box 1809 (29721)
101 N. Main Street, 2nd Floor (29720)
Lancaster, South Carolina

or

- (ii) by e-mail to the County Auditor or Deputy County Auditor; provided, delivery by e-mail shall qualify as "delivery" hereunder only to the extent receipt of such e-mail is confirmed by return e-mail from the County Auditor's office.
- Information, returns, certifications or other reports to be provided to the County Director of Economic Development shall be in writing and delivered either:

- (i) by trackable mail or delivery service to the Economic Development Director, addressed as follows:

Lancaster County, South Carolina
Attn.: Economic Development Director
P.O. Box 1809 (29721)
1033 W. Meeting Street (29720)
Lancaster, South Carolina

or

- (ii) by e-mail to the Economic Development Director; provided, delivery by e-mail shall qualify as "delivery" hereunder only to the extent receipt of such e-mail is confirmed by return e-mail from the Lancaster County Department of Economic Development.

Verbal communication shall not qualify as "delivery" of the information, returns, certifications, or other reports required to be provided under **Section 4.02**.

AMENDED AND RESTATED FEE IN LIEU OF TAX AGREEMENT

This AMENDED AND RESTATED FEE IN LIEU OF TAX AGREEMENT (this “Agreement”) is dated as of December 1, 2024, by and between LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”) and KEER AMERICA CORPORATION, a corporation organized and existing under the laws of the State of South Carolina (the “Company”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council, is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the “Act”) of the Code of Laws of South Carolina 1976, as amended (the “Code”) and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the “Multi-County Park Act”): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain industrial and commercial properties 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 workforce, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project (a “FILOT”); and (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park.

WHEREAS, the County and the Company previously entered into a Fee In Lieu of Tax Agreement dated as of December 9, 2013 (the “Prior FILOT Agreement”) wherein certain economic development incentives were made available to the Company pursuant to the Act in connection with the Company’s acquisition, installation, and construction of land, improvements, fixtures, machinery, equipment, furnishings and/or other real and/or tangible personal property to constitute a facility in the County for the manufacture of textile and related products (collectively, the “Project”).

WHEREAS, the incentives provided for in the Prior FILOT Agreement included: (a) calculation of FILOT Payments thereunder based on an assessment ratio of four percent (4%); (b) FILOT Payments for forty (40) consecutive years with respect to each Project Increment; and (c) an Initial Investment Period ending December 31 of the eighth (8th) year after the first year in which any component of the Project was first placed in service (i.e., December 31, 2023). Such incentives were dependent on the Company’s compliance with the Enhanced Investment Minimum Requirement which included investment in the Project of at least \$150,000,000 by the end of the Initial Investment Period. The Company failed to comply with the Enhanced Investment Minimum Requirement and, accordingly, the provisions of Section 5.02(d) of the Prior FILOT Agreement became effective, which such provisions include: (i) prospective calculation of FILOT Payments based on an assessment ratio of six percent (6%); (ii) FILOT Payments for thirty (30) consecutive years with respect to each Project Increment; (iii) the Investment Period shall be deemed to end on December 31 of the fifth (5th) year after the first year in which any component of the Project was first placed in service (i.e., December 31, 2020); and (iv) the Company shall

make payment to the County in an amount equal to the difference between the FILOT Payments theretofore made by the Company with respect to the Project and the FILOT Payments which would have been theretofore due from the Company with respect to the Project had the assessment ratio been applied at six percent (6%), which payment is to be due to the County within ninety (90) days after December 31, 2023. Capitalized terms used in this paragraph not otherwise defined herein have the meanings ascribed thereto in the Prior FILOT Agreement.

WHEREAS, Section 12-44-40(K) of the Act permits a fee agreement to be amended or terminated and replaced with regard to all matters except such amendment or replacement of a fee agreement must not be used to lower the millage rate, discount rate, assessment ratio, or, with certain exceptions, increase the term of the agreement.

WHEREAS, the County and the Company have held discussions regarding the Project, the recalculation of prior FILOT Payments and payment of such difference to the County, the calculation of future FILOT Payments, and other matters relating to the foregoing. The Company has requested that the County enter into this Agreement with the Company pursuant to the Act in order to continue the provision of certain FILOT incentives under the Act, and to provide for the payment to the County of certain FILOT incentives heretofore received by the Company.

WHEREAS, for the reasons set forth above, 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 herein set forth.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Company to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

ARTICLE I

DEFINITIONS AND RECAPITULATION

Section 1.01. Statutorily Required Recapitulation.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Company agree to waive the recapitulation requirements of Section 12-44-55 of the Act. Subsection **(b)** of this **Section 1.01** is inserted for convenience only and does not constitute a part of this Agreement or a summary compliant with Section 12-44-55 of the Act.

(b) Summary of Agreement.

1. Legal name of each initial party to this Agreement: Keer America Corporation and Lancaster County, South Carolina.

2. County, street address, parcel number or other location identifier of the Project and property to be subject to this Agreement:

Lancaster County, South Carolina
9735 Old Bailes Road
Indian Land, SC 29707
Parcel Number: 0007-00-010.00

3. Minimum investment agreed upon: Contract Minimum Investment Requirement.

4. Length and term of this Agreement: thirty (30) years for each annual increment of investment in the Project during the Investment Period (ending with the FILOT Payment due for property tax year 2050).

5. Assessment ratio applicable for each year of this Agreement: 6%, except as otherwise provided in the Agreement.

6. Millage rate applicable for each year of this Agreement: a fixed millage rate equal to 270.1 mills for each Negotiated FILOT Payment for property tax years 2024 to and including 2035, and a fixed millage rate equal to 310 mills for each Negotiated FILOT Payment for property tax years 2036 through the end of the Term, except as otherwise provided in the Agreement.

7. Statements

(a) The Project is located in a multi-county park. Multi-County Park Agreement (Project Vino Property) between Chesterfield County and Lancaster County dated December 11, 2013;

(b) Disposal of property subject to payments-in-lieu-of-taxes is allowed;

(c) Special Source Revenue Credits shall be applied with respect to the Economic Development Property in amounts equal to: (1) seventy percent (70%) of the Negotiated FILOT Payments for five (5) consecutive years beginning with the Negotiated FILOT Payment due for property tax year 2024 (payable on or before January 15, 2025) and ending with the Negotiated FILOT Payment due for property tax year 2028 (payable on or before January 15, 2029), and (2) forty percent (40%) of the Negotiated FILOT Payments beginning with the Negotiated FILOT Payment due for property tax year 2029 (payable on or before January 15, 2030) and for each Negotiated FILOT Payment thereafter through the end of the Term. Provided, however, that any Special Source Revenue Credits shall not apply to the Additional Fee or Clawback Payments, and *provided, further, that* Special Source Revenue Credits are subject to retroactive and prospective termination as set forth in **Section 5.01(h), (j) and (l)**, and **Section 10.02** of this Agreement;

(d) Payment will not be modified using a net present value calculation;
and

(e) Replacement Property provisions will apply.

Section 1.02. 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*” or “*Simplified FILOT Act*” shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

“*Act Minimum Investment Requirement*” shall mean investment in the Project of not less than \$2,500,000 (without regard to depreciation or other diminution in value) during the Investment Period, as required by Section 12-44-30(14) of the Act, which investment amount shall be calculated in accordance with Section 12-44-130 of the Act in determining whether the Company qualifies for the FILOT.

“*Additional Fee*” shall mean the payments, if any, to be made by the Company as set forth in **Section 5.01(k)** of this Agreement.

“*Administrative Expense*” shall mean the out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the review of matters relating to the Prior FILOT Agreement; (ii) the negotiation, preparation, review, approval and execution of this Agreement, (iii) the preparation, review, approval and execution of other documents related to the Prior FILOT Agreement, this Agreement and any multi-county park documents; and (iv) the fulfillment of its obligations under the Prior FILOT Agreement, this Agreement and any multi-county park documents.

“*Affiliate*” shall mean any Person directly or indirectly controlling, controlled by, or under common control with such other Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” shall mean this Amended and Restated Fee in Lieu of Tax Agreement by and between the County and the Company, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of December 1, 2024.

“*Clawback Amount*” shall mean the amount of \$3,010,935, as set forth in **Section 5.01(l)** of this Agreement.

“*Clawback Payments*” shall mean the payments due from the Company to the County as set forth in **Section 5.01(l)** of this Agreement.

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

“*Company*” shall mean the Keer America Corporation.

“*Contract Minimum Investment Requirement*” shall mean maintenance of capital investment by the Company in the Project of not less than \$130,000,000, without regard to depreciation or other diminution in value, and without regard to the end of the Investment Period. To the extent that the Company sells or transfers any portion of the Land to a third party that is not an Affiliate of the Company, the Contract Minimum Investment Requirement shall be reduced by the original value of such portion of the Land so sold or transferred, as reported in the applicable South Carolina Department of Revenue Form PT-300 relating thereto and any applicable schedules thereto.

“*Cost of Special Source Improvements*” shall mean the costs of designing, acquiring, constructing, improving, equipping or expanding the Special Source Improvements.

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

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

“*Department of Revenue*” shall mean the South Carolina Department of Revenue.

“*Economic Development Property*” shall mean each item of real and tangible personal property comprising the Project, except Non-Qualifying Property, within the meaning of that term as defined and used in Sections 12-44-30(6) and 12-44-40(C) of the Code and in this Agreement.

“*Equipment*” shall mean all machinery, equipment, furnishings, and other personal property acquired by the Company and placed in service as part of the Project during the Investment Period in accordance with this Agreement.

“*Event of Default*” shall mean an Event of Default as defined in **Section 11.01** hereof.

“*Existing Property*” shall mean property proscribed from becoming Economic Development Property pursuant to Section 12-44-110 of the Code, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to the execution and delivery of the Prior FILOT Agreement 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 the Company during the Investment Period which was not placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes were theretofore paid with respect to such property; or (c) modifications which constitute an expansion of Existing Property.

“*FILOT*” shall mean the fee-in-lieu of taxes, which the Company is obligated to pay to the County pursuant to **Section 5.01** hereof.

“*FILOT Payments*” shall mean the payments to be made by the Company pursuant to **Section 5.01** hereof.

“*FILOT Revenues*” shall mean the revenues received by the County from the payment of the FILOT.

“*Full-Time Job*” shall mean a full-time job (at least thirty (30) hours per week), and may include those jobs staffed using a temporary employment agency or staffing agency. Full-Time Jobs shall only include those employees who either: (i) are physically and actually located at the Project during working hours, or (ii) reside in the County if working remotely during working hours.

“*Investment Period*” shall mean the period beginning with the first day that Economic Development Property was purchased or acquired and ending on December 31, 2020.

“*Jobs Commitment*” shall mean the commitment of the Company to maintain 325 Full-Time Jobs with respect to the Project as set forth in **Section 4.01** of this Agreement.

“*Land*” shall mean the real estate upon which the Project is located, more specifically identified as Parcel Identification No. 0007-00-010.00 as of the date of this Agreement, and described on **Exhibit A** attached hereto.

“*Multi-County Park*” means the multi-county park established pursuant to the Multi-County Park Agreement (Project Vino), dated as of December 11, 2013, between the County and Chesterfield County, South Carolina, as from time to time amended and updated. Multi-County Park includes any subsequent park or any subsequent park agreement that includes the Land, and as authorized by the Multi-County Park Act.

“*Multi-County Park Act*” shall mean Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

“*Negotiated FILOT Payment*” shall mean the FILOT due pursuant to **Section 5.01(b)(ii)** hereof with respect to that portion of the Project consisting of Economic Development Property.

“*Non-Qualifying Property*” shall mean that portion of the Project consisting of: (i) property as to which the Company incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Company has terminated the Negotiated FILOT pursuant to **Section 4.03(c)** 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.

“*Prior FILOT Agreement*” shall mean the Fee In Lieu of Tax Agreement between the County and the Company dated as of December 9, 2013.

“*Project*” shall mean, collectively herein, the Project, and shall include the buildings and other improvements on the Land to the extent placed thereon by the Company, including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including the Equipment, and any Replacement Property, to the extent, and with the exception of the Replacement Property, placed in service during the Investment Period.

“*Released Property*” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to **Section 4.03** hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in **Article VII** hereof, and any infrastructure which the Company dedicates to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

“*Replacement Property*” shall mean all property placed in service in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to **Section 5.01(e)** hereof and Section 12-44-60 of the Code.

“*Special Source Improvements*” shall mean (i) infrastructure serving the Project, or (ii) improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of the Project.

“*Special Source Revenue Credits*” shall mean the Special Source Revenue Credits described in **Section 5.01(c)** hereof.

“*State*” shall mean the State of South Carolina.

“*Term*” shall mean the term of this Agreement, as set forth in **Section 10.01** hereof.

“*Transfer Provisions*” shall mean the provisions of Section 12-44-120 of the Code, as amended through the date hereof.

Section 1.03. 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 represents and warrants that: (i) it is a body politic and corporate and a political subdivision of the State; (ii) it is authorized by the Act to enter into this Agreement; (iii) it has approved this Agreement in accordance with the procedural requirements of the Act and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Agreement.

Section 2.02. Representations and Warranties by 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 corporation, validly existing and in good standing under the laws of the State of South Carolina, and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The Prior FILOT Agreement with the County with respect to the FILOT was instrumental in inducing the Company to locate the Project within Lancaster County and the State, and this Agreement with respect to the FILOT the Special Source Revenue Credits have been instrumental in inducing Company to maintain the Project within Lancaster County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Company are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) The income tax year of Company for federal and state income tax purposes ends December 31.

(e) No event has occurred and no condition currently exists with respect to the Company which would constitute a default hereunder or an "Event of Default" as defined herein.

(f) The Project constitutes a "project" and "economic development property" as provided under the Act.

ARTICLE III

UNDERTAKINGS OF THE COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Company in accordance with **Section 5.01** hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. The Company acknowledges that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for the Company's purposes or needs. No representation of the County is hereby made with regard to compliance by the Project or any Person with laws regulating: (i) the construction or acquisition of the Project; (ii) environmental matters pertaining to the Project; (iii) the offer or sale of any securities; or (iv) the marketability of title to any property.

Section 3.03. Invalidity. The parties acknowledge that the intent of this Agreement is to afford the Company the benefits of the Negotiated FILOT Payments and the Special Source Revenue Credits in consideration of the Company's decision to locate and maintain the Project within Lancaster County and that this Agreement has been entered into in reliance upon the enactment of the Simplified FILOT Act. In the event that, for any reason, the 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, such that all or a the portion of the Project consisting of Economic Development Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act, the Company and the County express their intentions that such payments be reformed so as to afford the Company 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 Economic Development 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 shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes, or 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 other tax credits which would be due if such Company 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 required by law to be subject to retroactive adjustment, then there shall be due and payable by the Company to the County with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which the Company would have paid as *ad valorem* taxes, or as FILOT payments pursuant to the Multi-County Park Act, as the case may be, including all exemptions, credits, and depreciation for which the Company would have otherwise been eligible if it were obligated to pay *ad valorem* taxes, or FILOT payments

pursuant to the Multi-County Park Act, as the case may be, together with, but only if required by law, interest on such deficiency as provided in Section 12-54-25(D) of the Code. The Company agrees that if this Agreement is reformed as provided in this **Section 3.03** or if retroactive adjustments are made, then under no circumstances shall the County be required to refund or pay any monies to the Company.

In addition to and notwithstanding the foregoing paragraph, the County shall not be obligated to perform any of its obligations or promises under this **Section 3.03** unless the Company has otherwise complied with or provided satisfactory evidence to the County that it intends to comply with its obligations and responsibilities under this Agreement.

Section 3.04. Multi-County Park Status. The County agrees to take action to place the Land in the Multi-County Park, if not already in the Multi-County Park, until the date this Agreement is terminated. If it becomes necessary to move the Land from one multi-county park to another prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in a multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

ARTICLE IV

JOB MAINTENANCE; REPORTING; MAINTENANCE AND MODIFICATION OF PROJECT

Section 4.01. Job Maintenance by Company. The Company agrees and commits to maintain at least 325 Full-Time Jobs at the Project through the end of the Term (the "Jobs Commitment"). The Company's compliance with the Jobs Commitment will be evaluated based Full-Time Jobs at the Project for tax year 2031 and tax year 2037, as reported to the County in accordance with the provisions of **Section 4.02** below.

Section 4.02. Reporting and Filing.

(a) The Company shall maintain, or cause to be maintained, such books and records with respect to the Project as will permit the identification of the portions of the Project placed in service, the amount of investment with respect thereto, any computations of the FILOT Payments and the Special Source Revenue Credits hereunder, the Company's compliance with the Contract Minimum Investment Requirement and the Company's compliance with the Jobs Commitment. The Company agrees to comply with all reporting requirements of the State and the County applicable to FILOT property under the Act and the Multi-County Park Act.

(b) A County Official may request and obtain such financial books and records from the Company that supports the respective reports and returns of the Company as may be reasonably necessary to verify the calculations of the FILOT Payments and the Special Source Revenue

Credits, or the Company's compliance with the Contract Minimum Investment Requirement and the Jobs Commitment. For purposes of this Agreement, the term "County Official" includes the County Administrator, County Auditor, County Assessor, County Treasurer, and the County Director of Economic Development.

(c) Each year during the Term, the Company shall deliver, in the manner set forth in **Section 4.02(e)** below, to the County Auditor and the County Director of Economic Development a copy of any property tax form or return it files with the South Carolina Department of Revenue with respect to the Project within five (5) days of delivery thereof to the South Carolina Department of Revenue. The County and the Company expect such tax forms or returns may include, but not be limited to:

(i) the South Carolina Department of Revenue Form PT-443 which, under current laws and regulations must be filed within thirty (30) days of the execution of a "fee agreement" with the South Carolina Department of Revenue, the county auditors of the County and Multi-County Park partner county, and the county assessors of the County and the Multi-County Park partner county; and

(ii) the South Carolina Department of Revenue Form PT-300 and any applicable schedules thereto (or such successor forms and schedules as may be promulgated by the South Carolina Department of Revenue from time to time), which such form, under current laws and regulations, and subject to certain exceptions, must be filed with the South Carolina Department of Revenue by April 30th of each year (such date being the last day of the fourth month following the Company's closing date for income tax purposes).

(d) During the Term, the Sponsor shall deliver to the County Auditor and the County Director of Economic Development on or before each May 31 following the end of a property tax year, beginning with May 31, 2025, the annual investment and jobs information with respect to the Company contained in **Exhibit B** attached hereto.

(e) If any of the information, returns, certifications, or other reports set forth in this **Section 4.02** are not timely delivered, in writing, to the appropriate County officials, in addition to any other remedy available to the County, the County may withhold the applicability of the FILOT and the Special Source Revenue Credits against the FILOT Payments otherwise provided pursuant to this Agreement for the applicable property tax year. Further, if such information, returns, certifications, or other reports with respect to a property tax year are not delivered, in writing, to the appropriate County officials by March 1 of the following property tax year, in addition to any other remedy available to the County, the FILOT and the Special Source Revenue Credits against the FILOT Payments otherwise provided pursuant to this Agreement for such property tax year shall be forfeited.

Information, returns, certifications or other reports to be provided to the County Auditor pursuant to this **Section 4.02** shall be in writing and delivered either:

- (i) by trackable mail or delivery service to the County Auditor, addressed as follows:

Lancaster County, South Carolina
Attn.: County Auditor
P.O. Box 1809 (29721)
101 N. Main Street, 2nd Floor (29720)
Lancaster, South Carolina

or

- (ii) by e-mail to the County Auditor or Deputy County Auditor; provided, delivery by e-mail pursuant to this subsection **(ii)** shall qualify as “delivery” hereunder only to the extent receipt of such e-mail is confirmed by return e-mail from the County Auditor’s office.

Information, returns, certifications or other reports to be provided to the County Director of Economic Development pursuant to this **Section 4.02** shall be in writing and delivered either:

- (A) by trackable mail or delivery service to the Economic Development Director, addressed as follows:

Lancaster County, South Carolina
Attn.: Economic Development Director
P.O. Box 1809 (29721)
1033 W. Meeting Street (29720)
Lancaster, South Carolina

or

- (B) by e-mail to the Economic Development Director; provided, delivery by e-mail pursuant to this subsection **(B)** shall qualify as “delivery” hereunder only to the extent receipt of such e-mail is confirmed by return e-mail from the Lancaster County Department of Economic Development.

Verbal communication shall not qualify as “delivery” of the information, returns, certifications, or other reports required to be provided under this **Section 4.02**.

(f) The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Company’s operations and processes (“Confidential Information”) and that any disclosure of the Confidential Information could result in substantial harm to the Company and could have a significant detrimental impact

on the Company's employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Company, its agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any Person other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Company and give the Company the opportunity to contest the release.

Section 4.03 Modification of Project.

As long as no event of default exists hereunder, the Company shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(a) The Company may, at its own expense, add acquire any real and personal property as the Company, in its discretion, deems useful or desirable.

(b) In any instance where the Company, in its discretion, determines that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, then the Company may remove such items or portions 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, as such may be permitted under the Simplified FILOT Act. Notwithstanding the foregoing, removal of such items from the Project shall not excuse noncompliance with the Contract Minimum Investment Requirement.

(c) The Company may, at any time in its discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT (as defined in **Section 5.01(b)(ii)**) set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in **Section 5.01(b)(i)** hereof.

ARTICLE V

PAYMENTS IN LIEU OF TAXES; SPECIAL SOURCE REVENUE CREDITS; ADDITIONAL FEE; CLAWBACK PAYMENTS

Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties agree that, beginning with property tax year 2024 and continuing through the end of the Term of this Agreement, the Company shall pay annually, with respect to the Project, a FILOT in the amount calculated as set forth in this **Section 5.01**, to be collected and enforced in accordance with Section 12-44-90 of the Act.

(b) The FILOT Payment due with respect to each property tax year shall equal:

(i) With respect to any portion of the Project consisting of undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, depreciation, rebates and abatement that would be available if such undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property were taxable; and

(ii) With respect to those portions of the Project consisting of Economic Development Property, for each of the thirty (30) consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) and (d) of this **Section 5.01** (a "Negotiated FILOT").

(c) The Negotiated FILOT Payments shall be calculated with respect to each property tax year based on:

(i) the fair market value (determined in accordance with Section 12-44-50(A)(1)(c) of the Code) of the improvements to real property and Equipment included within the Project theretofore placed in service (less, for Equipment, depreciation allowable for property tax purposes as provided in Section 12-44-50(A)(1)(c) of the Code);

(ii) a fixed millage rate equal to 270.1 mills for property tax years 2024 to and including 2035, and a fixed millage rate equal to 310 mills for property tax years 2036 through the end of the Term; and

(iii) an assessment ratio of six percent (6%).

All calculations of the Negotiated FILOT Payments shall take into account all deductions for depreciation or 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 exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

To defray or reimburse the Cost of Special Source Improvements, Special Source Revenue Credits shall be applied with respect to Economic Development Property in amounts equal to: (1) seventy percent (70%) of the Negotiated FILOT Payments for five (5) consecutive years beginning with the Negotiated FILOT Payment due for property tax year 2024 (payable on or before January 15, 2025) and ending with the Negotiated FILOT Payment due for property tax year 2028 (payable on or before January 15, 2029), and (2) forty percent (40%) of the Negotiated FILOT Payments beginning with the Negotiated FILOT Payment due for property tax year 2029 (payable on or before January 15, 2030) and for each Negotiated FILOT Payment thereafter through the end of the Term. Provided, however, that any Special Source Revenue Credits shall not apply to the Additional Fee or Clawback Payments, and *provided, further, that* Special Source Revenue Credits are subject to retroactive and prospective termination as set forth in **Section 5.01(h), (j) and (l)**, and **Section 10.02** of this Agreement;

Special Source Revenue Credits 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. If the Company has made a written election to include, as part of the Special Source Improvements, any personal property, and has provided notice to the County of such election, and the Company subsequently removes or disposes of such personal property from the Project during the term of this Agreement and has claimed Special Source Revenue Credits against FILOT Payments based on such personal property, then the Company is required to continue to make FILOT Payments on the removed personal property for the two years immediately following the year in which the Company removes such personal property from the Project. The amount of the FILOT Payments due on the removed personal property is equal to the FILOT Payments due on the personal property for the year in which the Company removes or disposes of the personal property. If the Company replaces such personal property with qualifying Replacement Property, then the removed personal property is deemed not to have been removed from the Project. Notwithstanding anything in this subsection to the contrary, the Company shall be required to make the FILOT Payments required in this subsection only if and to the extent that the Act or the Multi-County Park Act so require at the time the personal property in question is removed or disposed of.

(d) The FILOT Payments are to be recalculated:

(i) to reduce such payments in the event any Company disposes of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in **Section 4.03** hereof, by the amount applicable to the Released Property;

(ii) to increase such payments, based on the methodology set forth in **Section 5.01(c)** hereof, in the event any Company adds property (other than Replacement Property) to the Project, to the extent permitted by the Act; or

(iii) to adjust such payments if any Company elects to convert any portion of the Project from the Negotiated FILOT to the FILOT required by **Section 5.01(b)(i)** above, as permitted by **Section 4.03(c)** above.

(e) Upon the Company's placement in service of any Replacement Property for any portion of the Project removed under **Section 4.03** hereof and sold, scrapped, or disposed of by the Company, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the 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 Economic Development Property which it is replacing. 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 Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT Payment for the period of time remaining on the FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT Payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided for herein on the original property subject to the FILOT Payment.

(f) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Company and the County express their intentions that such payments be reformed so as to afford the Company the maximum benefit then permitted by law, including, without limitation, the benefits afforded under Section 12-44-50 of the Code and, specifically, that the Company may, at the Company's expense, exercise the rights granted by Section 12-44-160 of the Code. If the Project is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County agree that the Company shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in **Section 5.01(b)(i)** hereof. In such event, the Company shall be entitled, to the extent permitted by law: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Section 3(g) of Article X of the Constitution of the State of South Carolina, and any other exemptions or credits allowed by law; and (2) to enjoy all allowable depreciation. The Company agrees that if the FILOT Payments or this Agreement are reformed pursuant to this **Section 5.01(f)**, that under no circumstance shall the County be required to refund or pay any monies to the Company.

(g) This Agreement is automatically terminated, and the Project shall thereafter be subject to *ad valorem* taxes, in the event that the investment in the Project satisfies the Act Minimum Investment Requirement by the end of the initial Investment Period, but following the initial Investment Period falls below the Act Minimum Investment Requirement.

(h) The Company's compliance with the Contract Minimum Investment and the Jobs Commitment will be evaluated based on capital investment and Full-Time Jobs at the Project for property tax year 2031 and property tax year 2037, as reported to the County in accordance with the provisions of **Section 4.02** of this Agreement. In the event the Company fails to comply with either the Contract Minimum Investment Requirement or the Jobs Commitment as set forth in the preceding sentence, the Special Source Revenue Credits applicable to each Negotiated FILOT Payment due with respect to the Project shall be terminated on a retroactive and prospective basis. To the extent that the Special Source Revenue Credit is terminated, there shall be due and payable from the Company to the County an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid after taking into account any Special Source Revenue Credits that did apply to such Negotiated FILOT Payments, and the Negotiated FILOT Payments which would have been paid in the absence of any Special Source Revenue Credits, together with interest on such difference calculated in the manner as provided in Section 12-54-25 of the Code, or any successor Code provision.

(i) Unless otherwise provided by the Act, any amounts due to the County under this **Section 5.01** by virtue of the application of subsections (h), (j) and (l) shall be paid within ninety (90) days, following written notice thereof from the County to the Company.

(j) Notwithstanding any other provision of this Agreement, the Company acknowledges and agrees that the County's obligation to provide the FILOT incentive and the Special Source Revenue Credits ends, and this Agreement is terminated, if the Company ceases operations. For purposes of this **Section 5.01(j)**, "ceases operations" means closure of the Sponsor's facility in the County for a period of 365 consecutive days. The Company agrees that if this Agreement is terminated pursuant to this **Section 5.01(j)**, that under no circumstance shall the County be required to refund or pay any monies to the Company. If this Agreement is terminated under this **Section 5.01(j)**, Special Source Revenue Credits applicable to each Negotiated FILOT Payment due with respect to the Project shall be terminated on a retroactive basis, and there shall be due and payable from the Company to the County an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid after taking into account any Special Source Revenue Credits that did apply to such Negotiated FILOT Payments, and the Negotiated FILOT Payments which would have been paid in the absence of any Special Source Revenue Credits, together with interest on such difference calculated in the manner as provided in Section 12-54-25 of the Code, or any successor Code provision.

(k) To the extent the County levies additional millage for the specific purpose of providing fire, EMS services, or stormwater services, or any of the foregoing, during the Term of this Agreement, the Company shall pay an additional fee to the County (the "Additional Fee") calculated in the same manner set forth above in **Section 5.01(c)**, provided the component set forth in subsection (ii) of such calculation shall equal the additional millage so levied. The Additional

Fee shall be paid annually at the same time, and subject to the same terms and penalties, as each FILOT Payment is due pursuant to this Agreement.

(l) Pursuant to Section 5.02(d) of the Prior FILOT Agreement, the Company was obligated to make payment to the County in an amount (the "Clawback Amount") equal to the difference between the FILOT Payments theretofore made by the Company with respect to the Project and the FILOT Payments which would have been theretofore due from the Company with respect to the Project had the assessment ratio been applied at six percent (6%), which payment is due to the County within ninety (90) days after December 31, 2023. The County and the Company agree that the Clawback Amount is \$3,010,935, and payment thereof shall be made by the Company to the County in four (4) equal installments on June 30, 2025, December 31, 2025, June 30, 2026 and December 30, 2026 (the "Clawback Payments"). Provided the Clawback Payments are paid in full and in strict accordance with the foregoing schedule, the County agrees to waive any late fees, penalties or interest on the Clawback Amount. In the event the Company fails to pay any of the Clawback Payments in full and in strict accordance with the foregoing schedule, in addition to any other remedies provided for under this Agreement: (a) the entire remaining unpaid Clawback Amount shall be immediately due and payable to the County, with interest on the unpaid amount calculated in the manner as provided in Section 12-43-25 of the Code, or any successor Code provision; (b) an additional default rate of 15% shall be imposed on the remaining unpaid Clawback Amount, calculated from March 30, 2024; (c) any previously waived penalties or interest on the Clawback Amount shall be re-imposed, (d) any applicable process for tax sale of Company property for payment of the Clawback Amount shall commence; (e) the Special Source Revenue Credits applicable to each Negotiated FILOT Payment due with respect to the Project shall be terminated on a retroactive and prospective basis, and there shall be due and payable from the Company to the County within ninety (90) days an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid after taking into account any Special Source Revenue Credits that did apply to such Negotiated FILOT Payments, and the Negotiated FILOT Payments which would have been paid in the absence of any Special Source Revenue Credits, together with interest on such difference calculated in the manner as provided in Section 12-54-25 of the Code, or any successor Code provision; and (f) the Company shall be responsible for any attorneys fees and any Administrative Expenses incurred by the County in undertaking or enforcing any of the foregoing provisions.

ARTICLE VI

PAYMENTS BY COMPANY

Section 6.01. Defaulted Payments. In the event the Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid. Such payment obligation shall continue notwithstanding any termination of this Agreement. The Company agrees that the collection and enforcement of the defaulted payment shall be as provided in Section 12-44-90 of the Code.

ARTICLE VII

CASUALTY AND CONDEMNATION

Section 7.01. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, the Company, in its sole discretion, may determine whether or not to repair or replace the same. The parties agree that if the Company decides not to repair or replace all or any portion of the Project pursuant to this **Section 7.01**, the FILOT required pursuant to **Section 5.01** hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes, or FILOT Payments pursuant to the Multi-County Park Act, as the case may be, were payable with respect to the Project.

ARTICLE VIII

PARTICULAR COVENANTS AND AGREEMENTS

Section 8.01. Use of Project for Lawful Activities. During the Term of this Agreement, the Company shall use the Project for any lawful purpose that is authorized pursuant to the Act.

Section 8.02. Assignment. The County agrees that, to the extent allowable under the Act, the Company may assign its rights or obligations under this Agreement, and any lease agreement, lease purchase agreement, or fee agreement, as the case may be, or any other agreement related hereto or thereto, or transfer any and all assets of such Company, to one or more Related Entities (as defined in **Section 9.01** below) without adversely affecting the benefits of such Company or its assignees pursuant to any such agreement or the Act. The Company shall provide the County and the Department of Revenue with notice of any such assignment, transfer, or investment in accordance with the Act, and the County agrees, upon the request of such Company, to take all further action necessary to implement such assignment, transfer, or investment in accordance with the provisions of the Act. To the extent that the Act may require the consent, approval or ratification of or by the County for the assignment of this Agreement, in whole or in part, the County agrees to not unreasonably withhold its consent, approval or ratification.

Section 8.03. Indemnification. The Company releases the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County (herein collectively referred to as the "Indemnified Parties") from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to this Agreement, the Project or the use thereof, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party. The Company further agrees to indemnify and save harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the Company in the performance of any covenant or agreement on the part of the Company to be performed pursuant to the terms of this Agreement or arising from any act or negligence of, or

negligent failure to act where there is a duty to do so by the Company, or any of its agents, attorneys, contractors, servants, employees, or licensees, and from and against all cost, liability, and expenses incurred in or in connection with any such claim or action or proceeding brought thereon.

All covenants, stipulations, promises, agreements, and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and not of any member of the County Council or any officer, agent, attorney, servant, or employee of the County in his or her individual capacity, and, no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, attorney, agent, servant, or employee of the County.

Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this Agreement, any related agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by the Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event the Company shall indemnify and hold them harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, *provided, however*, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnified Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to place and maintain the Land within a multi-county park). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified Party is entitled to indemnification, such Indemnified Party shall promptly notify the Company, and the Company shall have the sole right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in its sole discretion; *provided*, that the Company shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Company has the ability to, and does, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Company reasonably determines that a conflict of interest exists between the County and the Company, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Company shall be liable for the reasonable cost of such counsel.

The indemnity specified in this **Section 8.03** shall be in addition to any heretofore extended by the Company to any Indemnified Party and shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. The Company may at any time: (a) transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; *provided, that*, in connection with any of the foregoing transfers: (i) except in connection with any transfer to an Affiliate of any Company (collectively, the “Related Entities”), or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company shall first obtain the prior written consent or subsequent ratification of the County; (ii) except where a financing entity, which is the income tax owner of all or part of the Project, is the transferee pursuant to clause (b) above and such transferee or financing entity assumes in writing the obligations of the Company hereunder, or where the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Company hereunder, but all obligations of the Company hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety; (iii) the Company, transferee, or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (iv) the Company and the transferee shall comply with all other requirements of the Transfer Provisions.

The Company acknowledges that such a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT Payment or result in penalties under the Act absent compliance by the Company with the Transfer Provisions.

Section 9.02. Rights of County. The parties acknowledge the application of the provisions of Section 12-44-90 of the Act, and that the County’s right to receive FILOT Payments hereunder (and, to the extent permitted by law, any other payments due from the Company required under this Agreement) shall be the same as its rights conferred under Title 12, Chapter 49 and 54, among others, of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE X

TERM; TERMINATION

Section 10.01. 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 last day of the property tax year in which the last Negotiated FILOT Payment is due hereunder. With respect to the Negotiated FILOT Payments arrangement, the Project has a term of thirty (30) years, as calculated pursuant to the respective dates when the relevant portions of the Project were placed in service. The County’s rights to receive indemnification and payment

of Administrative Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

Section 10.02. Termination. The County and the Company may agree to terminate this Agreement at any time, or the Sponsor may, at its option, terminate this Agreement at any time, as to all or a portion of the Project, upon providing the County thirty (30) days' notice of such termination, in which event all or such portion of the Project, as the case may be, shall be subject to *ad valorem* taxes from the date of termination. Prior to termination of this Agreement pursuant to this **Section 10.02**, the Company shall: (a) pay to the County, in full, any remaining amount of the Clawback Payment that has not previously been paid; and (b) pay to the County an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid after taking into account any Special Source Revenue Credits that did apply to such Negotiated FILOT Payments, and the Negotiated FILOT Payments which would have been paid in the absence of any Special Source Revenue Credits, together with interest on such difference calculated in the manner as provided in Section 12-54-25 of the Code, or any successor Code provision. The County's rights to receive such payments and its rights to enforce the terms of this Agreement shall survive termination of this Agreement.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

Section 11.01. Events of Default by Company.

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:

(a) if default shall be made by the Company in the due and punctual payment of any FILOT Payments, Additional Fees, Clawback Payments, indemnification payments, Administrative Expenses, or any other payments due under this Agreement, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; or

(b) if default shall be made by the Company in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing paragraph (1), and such default shall continue for ninety (90) days after the County shall have given the Company written notice of such default, *provided, that* the Company shall have such longer period of time as necessary to cure such default if the Company proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; and *provided, further*, that no Event of Default shall exist under this paragraph (2) during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Company has contested the occurrence of such default.

Section 11.02. Remedies on Event of Default by a Company. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

- (a) terminate this Agreement by delivery of written notice to the Company 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, records, and accounts of the Company pursuant to **Section 4.02(c)** above;
- (c) enforce all remedies as provided in this Agreement; or
- (d) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Company under this Agreement.

Section 11.03. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company 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. *Provided, however,* that anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money, shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company 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 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 of any or all such other rights, powers or remedies.

Section 12.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 12.03. Intentionally Omitted.

Section 12.04. Administrative Expenses.

(a) The Company agrees to reimburse the County from time to time for its Administrative Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administrative Expenses.

(b) The Company agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual FILOT Payments and any Special Source Revenue Credits.

Section 12.05. Rules of Construction. The County and the Company acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 12.06. Notices; Demands; Requests. Unless otherwise provided in this Agreement, 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 reputable courier service, addressed as follows or to such other persons and places as may be designated in writing by such party.

(a) As to the County:

County of Lancaster, South Carolina
ATTN: County Administrator
101 N. Main St. (29720)
P.O. Box 1809 (29721-1809)
Lancaster, South Carolina

With a copy to (which shall not constitute notice):

Economic Development Director, Lancaster County
P.O. Box 1809
Lancaster, South Carolina 29721

(b) As to the Company:

Keer America Corporation
ATTN: Administrative Office
9735 Old Bailes Road, Indian Land
Lancaster, South Carolina 29707

With a copy, in each case, to (which shall not constitute notice):

Keer America Corporation
ATTN: General Manager
9735 Old Bailes Road, Indian Land
Lancaster, South Carolina 29707

Section 12.07. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 12.08. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties with each other, and no party has made nor shall be bound by any agreement or any representation to any other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 12.09. Severability. In the event that any clause or provision 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 12.10. 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 12.11. Multiple Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument. This Agreement may be circulated for signature through electronic transmission, including, without limitation, facsimile and email, and all signatures so obtained and transmitted shall be deemed for all purposes under this Agreement to be original signatures and may conclusively be relied upon by any party to this Agreement.

Section 12.12. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties.

Section 12.13. Waiver. A party may waive compliance by any other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 12.14. Force Majeure. A party shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, labor shortages, fire, floods, pandemics, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond such party's reasonable control. Notwithstanding the foregoing, delays or non-performance under this Agreement shall not be excused due to (i) financial distress or the inability of the Company to make a profit or avoid a financial loss, (ii) changes in market prices or general economic conditions, or (iii) the Company's financial inability to perform its obligations under this Agreement.

[EXECUTION PAGES FOLLOW]

IN WITNESS THEREOF, the County, acting by and through the County Council, has caused this Amended and Restated Fee in Lieu of Tax Agreement to be executed in its name and behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council; and the Company has caused this Amended and Restated Fee in Lieu of Tax Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

COMPANY SIGNATURES FOLLOW ON NEXT PAGE.

KEER AMERICA CORPORATION

Name

Title

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

EXHIBIT A

DESCRIPTION OF LAND

Lancaster County, South Carolina and Keer America Corporation

LEGAL DESCRIPTION OF THE LAND TRACT "A", TRACT "B" AND TRACT "C"

ALL THAT CERTAIN piece, parcel or tract of land, with all improvements thereon, situate, lying and being in the County of Lancaster, State of South Carolina and being more particularly described having the following boundaries and measurements, to-wit:

BEGINNING at a number four rebar set on the east right of way margin of Macmillian Park Drive (County Road 142) being approximately 0.2 mile south of the intersection of South Carolina Highway 160 and Macmillian Park Drive (County Road 142); said point having **SOUTH CAROLINA NAD83(CORS2011) EPOCH: 2010.0000 STATE PLANE GRID COORDINATES** of 1152422.23 ifeet **NORTH** and 2035486.49 ifeet **EAST**; thence with a new property line **S72°31'59"E 424.85'** to an existing number five rebar being the common corner of Tract "B", lands owned by Springland Assoc., LLC and lands owned by the County of Lancaster South Carolina; thence along and with the common boundary of Tract "B" and lands owned by the County of Lancaster South Carolina **S31°17'26"E 105.79'** to an existing number five rebar being the common corner of Tract "B" and lands owned by the County of Lancaster South Carolina; thence along and with the common boundary of Tract "B" and lands owned by the County of Lancaster South Carolina **S76°16'57"E 224.84'** to an existing number five rebar being the common corner of Tract "B", Tract "A" and lands owned by the County of Lancaster South Carolina; thence along and with the common boundary of Tract "A" and lands owned by the County of Lancaster South Carolina **N52°31'24"E 721.63'** to an existing number four rebar; said point being the common corner of Tract "A", lands owned by the County of Lancaster South Carolina and the lands of Dewey E. Howey and Elizabeth P. Howey; thence along and with the common boundary of Tract "A" and the lands of Dewey E. Howey and Elizabeth P. Howey **N52°28'30"E 505.08'** to an existing 1" diameter iron rod; thence continuing along and with the common boundary of Tract "A" and the lands of Dewey E. Howey and Elizabeth P. Howey **N03°27'59"W 85.97'** to an existing number four rebar at the apparent southern right of way margin of South Carolina Highway 160; thence continuing along and with the common boundary of Tract "A" and the lands of Dewey E. Howey and Elizabeth P. Howey **N09°36'06"E 37.86'** to a point in the centerline of South Carolina Highway 160; thence along and with the centerline of South Carolina Highway 160 the following five (5) calls: 1) **S52°5'51"E 153.78'**; 2) **S53°09'19"E 395.95'**; 3) **S53°27'30"E 289.21'** ; 4) thence with a circular curve to the left having an **ARC** length of 480.49', a **RADIUS** length of 900.00' and a **CHORD BEARING** and **DISTANCE** of **S68°45'11"E 474.81'**, 5) **S84°02'51"E 28.39'** to a point in the centerline intersection of South Carolina Highway 160 and Old Bales Road (S29-349); said point being approximately 0.9 mile west of the intersection of South Carolina Highway 160 and US Highway 521; thence along and with the centerline of Old Bales Road (S29-349) with a circular curve to the right having an **ARC** length of 314.97', a **RADIUS** length of 625.00' and a **CHORD BEARING** and **DISTANCE** of **S35°09'59"W 311.65'** to a point in the centerline of Old Bales Road (S29-349); thence continuing along and with the centerline of Old Bales Road (S29-349)

S49°36'13"W 483.33' to a point in the centerline of Old Bailes Road (S29-349); thence continuing along and with the centerline of Old Bailes Road (S29-349) with a circular curve to the right having an ARC length of 408.79', a RADIUS length of 2000.00' and a CHORD BEARING and DISTANCE of S55°27'33"W 408.08' to a point in the centerline of Old Bailes Road (S29-349); thence continuing along and with the centerline of Old Bailes Road (S29-349) S61°18'53"W 228.02' to a point in the centerline of Old Bailes Road (S29-349); thence continuing along and with the centerline of Old Bailes Road (S29-349) with a circular curve to the left having an ARC length of 338.74', a RADIUS length of 580.00' and a CHORD BEARING and DISTANCE of S44°35'00"W 333.95' to an existing p.k. nail in the centerline of Old Bailes Road (S29-349); said point being the common corner of Tract "A" and Tract "C"; thence along and with the centerline of Old Bailes Road (S29-349) with a circular curve to the left having an ARC length of 296.83', a RADIUS length of 580.00' and a CHORD BEARING and DISTANCE of S13°11'27"W 293.60' to a point in the centerline of Old Bailes Road (S29-349) being the common corner of Tract "C" and lands owned by Judith Ann LaFreniere; thence leaving Old Bailes Road (S29-349) in a southwesterly direction along and with the common boundary of Tract "C" and lands owned by Judith Ann LaFreniere S61°47'58"W 396.45' (passing an existing number four rebar at 37.27') to an existing number five rebar being the common corner of Tract "C" and lands owned by Judith Ann LaFreniere; thence continuing along and with the common boundary of Tract "C" and lands owned by Judith Ann LaFreniere S01°25'52"E 104.87' to an existing number five rebar in the north most area of the northern right of way margin of Yarborough Road (County Road 125); thence S61°42'56"W 16.08' to an existing p.k. nail in the north most area of the northern right of way margin of Yarborough Road (County Road 125) being the common corner of Tract "C" and lands owned by Linda Stegall, Trustee; thence along and with the common boundary of Tract "C" and lands owned by Linda Stegall, Trustee N01°16'31"W 234.08' to an existing ½" diameter iron pipe being the common corner of Tract "C" and lands owned by Linda Stegall, Trustee; thence continuing along and with the common boundary of Tract "C" and lands owned by Linda Stegall, Trustee S52°53'55"W 170.79' to an existing 1" diameter iron pipe being the common corner of Tract "C" and lands owned by Linda Stegall, Trustee; thence continuing along and with the common boundary of Tract "C" and lands owned by Linda Stegall, Trustee S17°52'55"W 271.00' to an existing ½" diameter iron pipe being the common corner of Tract "C", lands owned by Linda Stegall, Trustee and lands owned by Jarrett Properties LLC; thence along and with the common boundary of Tract "C" and lands owned by Jarrett Properties LLC S60°35'03"W 1071.28' to an existing ½" diameter iron pipe being the common corner of Tract "C", Tract "B" and lands owned by Jarrett Properties LLC; thence along and with the common boundary of Tract "B" and lands owned by Jarrett Properties LLC S12°24'50"W 218.05' to an existing ½" diameter iron pipe being the common corner of Tract "B" and lands owned by Jarrett Properties LLC; thence continuing along and with the common boundary of Tract "B" and lands owned by Jarrett Properties LLC N85°00'53"W 740.84' to an existing number five rebar being the common corner of Tract "B", lands owned by Jarrett Properties LLC, lands owned by Edward Green and Tract "B1" Springland Assoc., LLC; thence along and with the common boundary of Tract "B" and Tract "B1" Springland Assoc., LLC N11°30'46"E 440.59' to a number four rebar set being the common corner of Tract "B" and Tract "B1" Springland Assoc., LLC; thence continuing along and with the common boundary of Tract "B" and Tract "B1" Springland Assoc., LLC N84°43'38"W 332.11' to a number four rebar set on the east most right of way margin of Macmillian Park Drive (County Road 142); said

point being the common corner of Tract "B" and Tract "B1" Springland Assoc., LLC; thence along and with the east most right of way margin of Macmillian Park Drive (County Road 142) the following six (6) calls: 1) N18°49'52"E 537.77', 2) thence with a circular curve to the left having an ARC length of 189.97', a RADIUS length of 1020.25' and a CHORD BEARING and DISTANCE of N13°29'47"E 189.70', 3) N08°09'43"E 134.65', 4) thence with a circular curve to the right having an ARC length of 512.19', a RADIUS length of 929.75' and a CHORD BEARING and DISTANCE of N23°56'38"E 505.74', 5) N39°43'33"E 932.22', 6) thence with a circular curve to the left having an ARC length of 175.27', a RADIUS length of 895.25' and a CHORD BEARING and DISTANCE of N34°07'01" E 174.99' to the POINT OF BEGINNING being all of TRACT "A", TRACT "B" and TRACT "C" containing 135.363 ACRES and being shown on map of "PLAT OF BOUNDARY SURVEY FOR KEER AMERICA CORPORATION" file "KZI4AADA" dated September 30th 2013 as surveyed by Enfinger & Associates Professional Land Surveyors.

TAX MAP PARCEL 0007-00-010.00

EXHIBIT B

ANNUAL INVESTMENT AND JOBS CERTIFICATION

To be Filed Annually, by May 31st, with:

Lancaster County, South Carolina
Attn.: County Auditor
P.O. Box 1809 (29721)
101 N. Main Street, 2nd Floor (29720)
Lancaster, South Carolina 29721

Lancaster County, South Carolina
Attn.: Economic Development Director
P.O. Box 1809 (29721)
1033 W. Meeting Street (29720)
Lancaster, South Carolina 29721

I _____, the _____ of Keer America Corporation (the "Company"), do hereby certify in connection with the Amended and Restated Fee In Lieu of Tax Agreement dated as of December 1, 2024 (the "Agreement") between Lancaster County, South Carolina, and the Company as follows:

(1) As of December 31, 20__, the total amount of Special Source Revenue Credits received by the Company is \$_____.

(2) As of December 31, 20__, the total amount of investment by the Company in Project Costs of Special Source Improvements is not less than \$_____.

(3) As of December 31, 20__, the capital investment maintained by the Company in the Project is not less than \$_____.

(4) As of December 31, 20__, the total number of Full-Time Jobs maintained by the Company is _____.

All capitalized terms used but not defined herein shall have the meaning set forth in the Agreement.

IN WITNESS WHEREOF, I have set my hand this _____ day of _____, 20__.

KEER AMERICA CORPORATION

By: _____

Name: _____

Its: _____