



AGENDA

SPECIAL CALLED MEETING OF CITY COUNCIL

**Wednesday, August 23, 2023
5:30 p.m.**

**200 N. Main Street
Fountain Inn, SC**

1. Call to Order - Mayor McLeer
2. Executive Session -After coming out of executive session, Council may vote on items discussed during executive session.
 - a. Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee related to the Office of the City Clerk and Council.
 - b. Discussion of negotiations incident to proposed contractual arrangements related to the Natural Gas Department.
 - c. Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property related to the Recreation, Public Works, Police, Fire, Finance, Administration, Human Resources, Finance, and Judicial Departments.
 - d. Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area related to Project Irish.
3. New Business
 - a. First and Final Reading of Resolution 2023-9, Authorizing the purchase of natural gas from Patriots Energy Group financing authority; approving the execution and delivery of a gas supply contract and other documents relating to said purchase; consenting to the assignment of certain obligations under the gas supply contract in connection with the issuance of bonds by Patriots Energy Group financing authority and addressing related matters.
 - b. First and Final Reading of Resolution 2023-10, Requesting Greenville County to Authorize and approve, under certain conditions, the execution

Council may enter executive session to discuss any item on the agenda as permitted by S.C. Code Ann. § 30-4-70.

and delivery of a fee in lieu of tax and special source credit agreement with Project Irish; and other related matters.

4. Adjourn

Council may enter executive session to discuss any item on the agenda as permitted by S.C. Code Ann. § 30-4-70.

FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the Freedom of Information Act and the City of Fountain Inn's requirements.

RESOLUTION NUMBER 2023-9

AUTHORIZING THE PURCHASE OF NATURAL GAS FROM PATRIOTS ENERGY GROUP FINANCING AUTHORITY; APPROVING THE EXECUTION AND DELIVERY OF A GAS SUPPLY CONTRACT AND OTHER DOCUMENTS RELATING TO SAID PURCHASE; CONSENTING TO THE ASSIGNMENT OF CERTAIN OBLIGATIONS UNDER THE GAS SUPPLY CONTRACT IN CONNECTION WITH THE ISSUANCE OF BONDS BY S PATRIOTS ENERGY GROUP FINANCING AUTHORITY AND ADDRESSING RELATED MATTERS

WHEREAS, Patriots Energy Group Financing Authority (“PEGFA”), a joint agency under the laws of the State of South Carolina, organized as a public body and a body corporate and politic pursuant to the Joint Agency Act, Chapter 24 of Title 6 Code of Laws of South Carolina, 1976, as amended, § 6-24-10, et seq., Code of Law of South Carolina (“Act”);

WHEREAS, PEGFA was formed, among other reasons, to acquire secure, reliable and adequate long-term supplies of natural gas for resale to governmentally-owned wholesale customers for ultimate delivery to the residential, commercial, institutional and industrial consumers in their areas of service, and to achieve costs savings, economies of scale and reliability of supply;

WHEREAS, PEGFA has planned and developed a gas supply project under which it will finance the acquisition of gas supplies from Aron Energy Prepay [] LLC, a Delaware limited liability company (“Prepay LLC”) pursuant to a Prepaid Gas Sales Agreement (“Prepaid Agreement”) to meet a portion of the gas supply requirements of the City of Fountain Inn, South Carolina, (“Gas Purchaser”) and other public gas distribution systems that elect to participate (together, “Project Participants”) through a gas prepayment project (“Prepaid Project”);

WHEREAS, Gas Purchaser is a body politic and corporate, municipal corporation and unit of local government of the State of South Carolina;

WHEREAS, Gas Purchaser has determined that it is in the best interest of its customers to be a Project Participant and thereby purchase a portion of Gas Purchaser’s natural gas requirements from PEGFA pursuant to a natural gas sales contract to be entered into by PEGFA and Gas Purchaser (“Gas Supply Contract”);

WHEREAS, under the Gas Supply Contract, Gas Purchaser will agree to purchase from PEGFA the amounts of gas specified in the Gas Supply Contract, at the prices specified in the Gas Supply Contract, for a term specified in the Gas Supply Contract;

WHEREAS, the Bonds will be issued pursuant to a Trust Indenture between PEGFA and a corporate trustee (“Indenture”) and purchased by the underwriters or original purchasers of the Bonds (“Underwriters”) pursuant to one or more bond purchase agreements or similar agreements;

WHEREAS, PEGFA will pledge to the payment of the Bonds certain assets of PEGFA, including the Gas Supply Contract between PEGFA and Gas Purchaser;

WHEREAS, Gas Purchaser shall have no financial liability with respect to the Bonds, and Gas Purchaser’s only obligations relating to the Prepaid Project shall be set forth in the Gas Supply Contract; and

WHEREAS, in order to authorize the purchase of natural gas from PEGFA and the execution of the Gas Supply Contract, to consent to the assignment of the Gas Supply Contract to secure the Bonds, to authorize the sale of the gas purchased from PEGFA, and to authorize and take such other necessary and appropriate action in furtherance of the Prepaid Project, the City Council of the City of Fountain Inn, South Carolina, adopts this Resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Fountain Inn, South Carolina, as follows:

SECTION 1: The City of Fountain Inn, South Carolina (“Gas Purchaser”) is authorized to enter into a Gas Supply Contract with PEGFA, pursuant to which Gas Purchaser will purchase natural gas from PEGFA as provided in the Gas Supply Contract. The Gas Supply Contract shall (a) have a Delivery Period (as defined in the Gas Supply Contract) of not greater than 366 months, (b) provide for the purchase by Gas Purchaser of not more than an annual average over the term of the Gas Supply Contract of annual average over the term of the Gas Supply Contract of January 3,000, February 1,700, April-October 700, and December 2,500 MMBtu per day, and (c) provide for a projected minimum savings (prior to payment of the supply administration fee as set forth in the Gas Supply Contract) through monthly and annual average over the term of the Gas Supply Contract of no less than \$0.50 per MMBtu to Gas Purchaser for the Initial Discount Period (as defined in the Gas Supply Contract), and not less than \$0.23 per MMBtu to Gas Purchaser in each successive Reset Period (as defined in the Gas Supply Contract), unless Gas Purchaser elects to purchase gas at a lesser discount during any Reset Period, as set forth in the Gas Supply Contract.

SECTION 2: The Gas Supply Contract shall be in substantially the form submitted and attached hereto as Attachment A, which such form is hereby approved, to include such completions, deletions, insertions, revisions, and other changes as may be approved by the officers executing same with the advice of counsel, their execution to constitute conclusive evidence of their approval of any such changes.

SECTION 3: Mayor George Patrick McLeer (“Authorized Officer”) is hereby authorized to execute and deliver the Gas Supply Contract and the City Clerk, Elizabeth Adams or other officer of Gas Purchaser (“Attesting Officer”) is hereby authorized to attest the Gas Supply Contract.

SECTION 4: The officers, employees, and agents of Gas Purchaser are hereby authorized and directed to take such actions and do all things necessary to cause the purchase of said gas to take place, including the payment of all amounts required to be paid in order to purchase the gas in accordance with the Gas Supply Contract.

SECTION 5: The Governing Body consents to the assignment and pledge of all of PEGFA’s right, title and interest under the Gas Supply Contract, including the right to receive performance by Gas Purchaser of its obligations thereunder, to secure the payment of principal of and interest on the Bonds.

SECTION 6: The officers and employees of Gas Purchaser, as well as any other agent or representative of Gas Purchaser, are hereby authorized and directed to cooperate with and provide PEGFA, the underwriters of the Bonds, and their agents and representatives with such information relating to Gas Purchaser as may be necessary for use in the preparation and distribution of a preliminary official statement or other disclosure document used in connection with the sale of the Bonds. After the Bonds have been sold, any officer or employee of Gas Purchaser, or any agent or representative designated by Gas Purchaser, shall make such completions, deletions, insertions, revisions, and other changes in the preliminary official statement relating to Gas Purchaser not inconsistent with this Resolution as are necessary or desirable to complete it as a final official statement for purposes of Rule 15c2-12 of the Securities and Exchange Commission (“Rule”). Gas Purchaser is authorized and directed to cooperate with PEGFA in the discharge of PEGFA’s obligations to provide annual financial and operating information and notification as to material events with respect to Gas Purchaser as may be required by the Rule. Any officer or employee of Gas Purchaser, or such other agent or representative of Gas Purchaser as shall be appropriate, is hereby authorized and directed to provide such information as shall be required for such compliance, and such officer or employee may execute a continuing disclosure agreement with respect to the provision of such information if requested to do so by the underwriters of the Bonds.

SECTION 7: The Bonds are not obligations of Gas Purchaser but are limited obligations of PEGFA payable solely from the revenues and receipts pledged by PEGFA under the Indenture, including the revenues and receipts arising from the sale of gas to Project Participants. By consenting to the assignment of the Gas Supply Contract and agreeing to provide information for inclusion in the official statement, Gas Purchaser is not incurring any financial liability with respect to the Bonds.

SECTION 8: All acts and doings of the officers and employees of Gas Purchaser or any other agent or representative of Gas Purchaser which are in conformity with the purposes and intent of this Resolution and in furtherance of the execution and delivery of and performance under the Gas Supply Contract, and in

furtherance of the issuance and sale of the Bonds, shall be and the same hereby are in all respects approved and confirmed, including without limitation the execution and delivery by the officers of Gas Purchaser of all certificates and documents as they shall deem necessary in connection with the Gas Supply Contract and the Bonds.

SECTION 9: If any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

SECTION 10: All other resolutions or orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed and this Resolution shall be in immediate effect from and after its adoption.

SECTION 11: This Resolution shall take effect immediately upon its adoption.

[ONE SIGNATURE PAGE AND ONE EXHIBIT FOLLOW]
[REMAINDER OF PAGE SUBSTANTIVELY BLANK]

Adopted: August 23, 2023.

CITY OF FOUNTAIN INN, SOUTH CAROLINA

[CITY SEAL]

George Patrick McLeer, Jr., Mayor

ATTEST:

Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek, Esq.
King Kozlarek Law LLC
City Attorney – Fountain Inn

ATTACHMENT A
FORM OF GAS SUPPLY CONTRACT
[Attached]

**CITY OF FOUNTAIN INN, SOUTH CAROLINA
A RESOLUTION 2023-10**

**REQUESTING GREENVILLE COUNTY TO AUTHORIZE AND APPROVE,
UNDER CERTAIN CONDITIONS, THE EXECUTION AND DELIVERY OF A
FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT WITH
PROJECT IRISH; AND OTHER RELATED MATTERS**

**THE CITY COUNCIL (“COUNCIL”) OF THE CITY OF FOUNTAIN INN, SOUTH
CAROLINA (“CITY”), RESOLVES:**

Section 1. The City of Fountain Inn, South Carolina, finds:

(a) Project Irish (more fully described in the Exhibits A-E to this Resolution) has requested the City to request Greenville County to an incentive arrangement with Project Irish to induce the project to locate in the City;

(b) The City has caused to be prepared documents to present to Greenville County as part of the City’s request for Greenville County to consider a fee in lieu of taxes arrangement with Project Irish, which documents are attached to this Resolution as follows:

Exhibit A:	Form of Inducement Resolution (with Agreement)
Exhibit B:	Form of Fee and SSRC Agreement
Exhibit C:	Form of Fee Ordinance
Exhibit D:	Form of Intergovernmental Agreement
Exhibit E:	Form of Greenville Park Ordinance

(c) The City will request Anderson County to approve a park ordinance similar in scope to the Greenville Park Ordinance and, as such, for Greenville County and Anderson County to execute and deliver a multi-county industrial/business park agreement regarding Project Irish.

Section 2. The Council authorizes the City Administrator, and his designees, to present Project Irish’s incentive request and prepared documents to Greenville County for consideration.

Section 3. Nothing in this Resolution binds the Council to take any further actions with respect to Project Irish or any incentive arrangement involving Project Irish.

Done in meeting duly assembled: August _____, 2023.

CITY OF FOUNTAIN INN, SOUTH CAROLINA

[CITY SEAL]

George Patrick McLeer, Jr., Mayor

ATTEST:

Elizabeth Adams, City Clerk

APPROVED AS TO FORM:

Michael E. Kozlarek, Esq.
King Kozlarek Law LLC

EXHIBIT A
FORM OF INDUCEMENT RESOLUTION (WITH AGREEMENT)

RESOLUTION NO. 2023-10

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA AND PROJECT Irish, WHEREBY, UNDER CERTAIN CONDITIONS, GREENVILLE COUNTY WILL EXECUTE A FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT WITH RESPECT TO A PROJECT IN THE COUNTY WHEREBY THE PROJECT WOULD BE SUBJECT TO PAYMENT OF CERTAIN FEES IN LIEU OF TAXES, AND WHEREBY PROJECT/COMPANY WILL BE PROVIDED CERTAIN CREDITS AGAINST FEE PAYMENTS IN REIMBURSEMENT OF INVESTMENT IN RELATED QUALIFIED INFRASTRUCTURE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, Greenville County, South Carolina (the ***“County”***), acting by and through its County Council (the ***“County Council”***), is authorized and empowered, under and pursuant to the provisions of Title 12, Chapter 44 (the ***“FILOT Act”***), Title 4, Chapter 1 (the ***“Multi-County Park Act”***), Code of Laws of South Carolina 1976, as amended (the ***“Code”***), to enter into agreements with industry, to offer certain privileges, benefits and incentives as inducements for economic development within the County; to acquire, or cause to be acquired, properties as may be defined as “projects” in the Act and to enter agreements with the business or industry to facilitate the construction, operation, maintenance and improvement of such projects; to enter into or allow financing agreements with respect to such projects; and to accept any grants for such projects through which powers the industrial and business development of the State will be promoted, whereby the industry would pay fees-in-lieu-of taxes with respect to qualified projects; to provide credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure serving the County or the project, used in the operation of an hotel (collectively, ***“Infrastructure”***); through all such powers, the industrial development of the State of South Carolina (the ***“State”***) will be promoted and trade developed by inducing commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, **PROJECT Irish** (the ***“Company”***) has requested that the County assist in the acquisition, construction and installation of land, buildings, improvements, fixtures, furnishings and other real and/or tangible personal property for the purpose of an hotel in the County (collectively, the ***“Project”***), which will result in expected investment by the Company in the Project of at least \$18,000,000 in investment in connection therewith, by December 31 of the fifth year after the first year which any portion of the Project is first placed in service; and

WHEREAS, the Company has requested that the County enter into a fee in lieu of tax agreement with the Company, thereby providing for certain fee in lieu of tax and special source credit incentives with respect to the Project, all as more fully set forth in the Inducement Agreement (as hereinbelow defined) attached hereto and made a part hereof; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a “project” and “economic development property” as such terms are defined in the FILOT Act and that the Project would serve the purposes of the FILOT Act; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution (collectively, the ***“Multi-County Park Authority”***), the County intends to cause the site on which the Project will be located, to the extent not already therein located, in a multi-county industrial and business park (a ***“Park”***) established by the County pursuant to qualifying agreement with an adjoining South Carolina county (the ***“Park Agreement”***); and

WHEREAS, the County has determined and found, on the basis of representations of the Company, that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; that the Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either; that 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; that the inducement of the location of the Project within the County and State is of paramount importance; and that the benefits of the Project will be greater than the costs; and the County has agreed to effect the delivery of an Inducement Agreement on the terms and conditions hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED, by the County Council as follows:

Section 1. (a) Pursuant to the authority given to County Council by the South Carolina Constitution, the Code, and the FILOT Act and the Multi-County Park Act, and subject to the enactment of required legislative authorizations by the County Council, and for the purpose of providing development incentives for the Project through the payment by the Companies of fees in lieu of taxes with respect to the Project pursuant to Section 12-44-40 of the Act, and for the purpose of providing for the provision special source credits against payments in lieu of taxes made by the Company pursuant to a Park Agreement in order to allow reimbursement to the company for a portion of its investment in qualified Infrastructure within the meaning and purposes of Section 4-29-68 of the Code, there is hereby authorized to be executed an Inducement Agreement between the County and the Company pertaining to the Project, the form of which is now before the County Council (the ***“Inducement Agreement”***) so as to establish, among other things, that the County and the Company will be parties to a fee in lieu tax and special source credit agreement (the ***“Fee Agreement”***).

(b) The County Council will use its best efforts to take all reasonable acts to ensure that the Project will continuously be included within the boundaries of the Park or another qualified multi-county industrial or business park in order that the tax benefits contemplated hereunder and afforded by the laws of the State for projects located within multi-county industrial or business parks will be available to the Company for at least the term of the Fee Agreement.

Section 2. The provisions, terms and conditions of the Fee Agreement shall be prescribed and authorized by subsequent ordinance(s) of the County Council, which, to the extent not prohibited by law, shall be consistent with the terms of this Resolution.

Section 3. All orders, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Council.

Section 4. The authorization of the execution and delivery of the documents related to the Inducement Agreement and Fee Agreement and all other related documents or obligations of the County is subject to the compliance by the County Council with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

Section 5. It is the intention of the County Council that this resolution shall constitute an inducement resolution with respect to the Project, within the meaning of the FILOT Act.

DONE in meeting duly assembled this _____ day of September, 2023.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Dan Tripp, Chairman of County Council,
Greenville County, South Carolina

By: _____
Joseph M. Kernell, County Administrator,
Greenville County, South Carolina

ATTEST:

By: _____
Regina McCaskill, Clerk to County Council
Greenville County, South Carolina

(SEAL)

INDUCEMENT AGREEMENT

THIS INDUCEMENT AGREEMENT (this ***“Agreement”***) made and entered into as of September [], 2023 by and between **GREENVILLE COUNTY, SOUTH CAROLINA**, a body politic and corporate and a political subdivision of the State of South Carolina (the ***“County”***), and **PROJECT Irish** (the ***“Company”***).

WITNESSETH:

ARTICLE I RECITATION OF FACTS

Section 1.1. As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

(a) The County, by and through its County Council, is authorized and empowered by the provisions of Title 12, Chapter 44 (the ***“FILOT Act”***) and Title 4, Chapter 1 (the ***“Multi-County Park Act”***), Code of Laws of South Carolina 1976, as amended (the ***“Code”***), to allow for the payment of certain fees in lieu of *ad valorem* taxes with respect to industrial properties; to issue special source revenue bonds, or in the alternative, to provide special source credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure serving the County or the project, including improved or unimproved real estate and personal property used in the operation of an hotel (collectively, ***“Infrastructure”***); through all such powers the development of the State of South Carolina (the ***“State”***) will be promoted and trade developed by inducing new industries to locate in the State and by encouraging industries now located in the State to expand their investments and thus utilize and employ manpower and other resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally.

(b) The Company requested that the County assist in the acquisition, construction and installation of land, buildings, improvements, fixtures, furnishings and other real and/or tangible personal property used in the operation of an hotel in the County (collectively, the ***“Project”***), which will result in an expected investment by the Company in the Project of at least \$18,000,000 (the ***“Investment Target”***) by December 31 of the fifth (5th) year after the first year in which any portion of the Project is first placed in service (the ***“Investment Period”***).

(c) Pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County will use its best efforts to place the site of the Project in a multi-county industrial and business park (the ***“Park”***) established by the County pursuant to qualifying agreement with Greenville County or other adjoining county in the State (the ***“Park Agreement”***).

(d) The County has determined after due investigation that the Project would be aided by the availability of the assistance which the County might render through applicable provisions of the FILOT Act and the Multi-County Park Act as economic development incentives, and the inducements offered, will, to a great degree, result in the Project locating in the County. Pursuant to this determination, the Company and the County have agreed to negotiate for payments in lieu of *ad valorem* taxes as authorized by the FILOT Act, and the Company and the County have agreed as set forth in the Fee Agreement, pursuant to Section 4-1-175 of the Multi-County Park Act, that the Company would be afforded certain credits as described herein against its payments in lieu of taxes in respect of the Company’s investment in qualified Infrastructure within the meaning and purposes of Section 4-29-68 of the Code.

(e) The County has given due consideration to the economic development impact of the Project, and as a preliminary matter, based on representations by the Company, hereby finds and determines that (i) the Project is anticipated to benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally, (ii) the Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either, (iii) the purposes to be accomplished by the Project, i.e., economic development, retention of jobs,

and addition to the tax base of the County, are proper governmental and public purposes, (iv) the inducement of the location of the Project within the County and State is of paramount importance and (v) the benefits of the Project will be greater than the costs. The County, therefore, has agreed to effect the issuance and delivery of this Agreement, pursuant to the FILOT Act, the Multi-County Park Act and a Resolution of the County Council dated September [], 2023, and on the terms and conditions set forth.

ARTICLE II UNDERTAKINGS ON THE PART OF THE COUNTY

The County agrees as follows:

Section 2.1. The County, subject to the limits set forth herein, agrees to enter into a Fee in Lieu of Tax and Special Sourced Credit Agreement with the Company with respect to the Project (the ***“Fee Agreement”***).

Section 2.2. The Fee Agreement will be executed at such time and upon such mutually acceptable terms as the Company shall request, subject to the provisions of Sections 2.7 and 4.2 herein.

Section 2.3. The terms and provisions of the Fee Agreement shall be substantially in the form generally utilized in connection with the FILOT Act, as to be agreed upon by the County and the Company. The Fee Agreement shall contain, in substance, the following provisions:

(a) The term of the Fee Agreement will be for a period of up to ten (10) years, commencing with the first year of the capital investment made under the Fee Agreement.

(b) The Fee Agreement shall provide that, in the performance of the agreements contained therein on the part of the County, such agreement will not give rise to any pecuniary liability of the County and shall not create a charge against the general credit or taxing power of the County, the State or any incorporated municipality.

(c) The Fee Agreement shall contain a provision requiring the Company to make payments in lieu of taxes to the County for a period of up to ten (10) years after each year of the capital investment made under the Fee Agreement during the Investment Period. The amounts of such payments shall be determined by using (i) an assessment ratio of 6%; (ii) a fixed millage rate of 331.0 mills (that is, the cumulative millage rate in effect at the site of the Project for all taxing entities as of June 30, 2023); and (iii) the fair market value of the Project property as determined by the South Carolina Department of Revenue in accordance with the FILOT Act. For purposes of computing the amount of such fee, in accordance with the terms of Section 12-44-50(2) of the FILOT Act, the property shall be allowed all applicable property tax exemptions except the exemption allowed under 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.

(d) The Company may dispose of and replace property subject to fee in lieu of tax payments, as set forth in Section 12-44-60 of the FILOT Act; the fee with respect to such replacement property shall be calculated in accordance with the provisions of said Section 12-44-60.

Section 2.4. The County hereby consents to the planning, design, acquisition, construction and carrying out of the Project to commence prior to the execution and delivery of the Fee Agreement. Contracts for construction and for purchase of personal property used in the operation of an hotel deemed necessary under the Fee Agreement or that are otherwise permitted under the FILOT Act may be let by the Companies, in their sole discretion.

Section 2.5. Pursuant to Section 4-1-175 of the Multi-County Park Act, the County, subject to the limits set forth herein, including Sections 2.7 and 4.2 hereof and pursuant to the Fee Agreement, will provide a special source credit against payments in lieu of taxes by the Companies pursuant to the Park Agreement or the Fee Agreement, as the case may be, to reimburse the Company in respect of its investment in Infrastructure

pertaining to the Project. In these respects, the Company shall be entitled to claim an annual special source credit of []%, to be calculated and applied after any amount due the non-host county(ies), with respect to the Project (that is, with respect to investment made by the Company under the Fee Agreement during the Investment Period) for up to ten (10) years, provided, however, the aggregate credit shall not exceed \$750,000.

Notwithstanding anything herein to the contrary, under no circumstances shall the Company be entitled to claim or receive any abatement of *ad valorem* taxes for any portion of investment in the Project for which a special source credit is taken.

In no event shall the aggregate amount of any special source credits claimed by the Company exceed the amount expended by it with respect to the Infrastructure at any point in time.

Section 2.6. Subject to the matters contained herein, the Fee Agreement will be executed at such time and upon such mutually acceptable terms as the parties shall agree.

Section 2.7. Notwithstanding anything in this Agreement to the contrary, the authorization by the County of the Fee Agreement is subject to compliance by the County with the provisions of the Home Rule Act regarding the enactment of ordinances and shall not constitute a general obligation or indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County. Further, the County will perform such other acts and adopt such other proceedings, consistent with this Agreement, as may be required to faithfully implement this Agreement and will assist, in good faith and with all reasonable diligence, with such usual and customary governmental functions as will assist the successful completion of the Project by the Company. The County has made no independent legal or factual investigation regarding the particulars of this Agreement, or the transaction contemplated hereunder and, further, executes this Agreement in reliance upon the representations by the Company that the Agreement and related documents comply with all laws and regulations, particularly those pertinent to industrial development projects in the State.

Section 2.8. Should the Company fail to collectively invest at least \$18,000,000 in connection with the Project, by the end of the Investment Period (as shall be described in the definitive Fee Agreement), any amount of payments in lieu of taxes otherwise payable under the Fee Agreement (taking into account all infrastructure credits) shall no longer be payable by the Company, and the project shall be subject to *ad valorem* taxes which would have been due and payable with respect to the Project had the Fee Agreement not been entered into.

ARTICLE III UNDERTAKINGS ON THE PART OF THE COMPANIES

Section 3.1. Except with respect to the Fee Agreement, the County will have no obligation to assist the Company in finding any source of financing for all or any portion of the property constituting the Project and the Company may endeavor to finance the Project to the extent required to finance the cost of the acquisition and installation of the Project.

Section 3.2. If the Project proceeds as contemplated:

(a) The Company agrees to enter into the Fee Agreement, under the terms of which it will obligate themselves to make the payments required by the FILOT Act including, but not limited to, payments in lieu of taxes at rates calculated in accordance with Section 2.3(d) hereof;

(b) With respect to the Project, the Company agrees to reimburse the County for all out-of-pocket costs, including reasonable attorney's fees of the County actually incurred, and other out-of-pocket expenditures to third parties to which the County might be reasonably put with regard to executing and entering into this Agreement and the Fee Agreement;

(c) The Company agrees to hold the County harmless from all pecuniary liability including, without limitation, environmental liability, and to reimburse the County for all expenses to which the County

might be put in the fulfillment of its obligations under this Agreement and in the negotiation and implementation of its terms and provisions, including reasonable legal expenses and fees;

(d) The Company agrees to apply for, and use commercially reasonable efforts to obtain, all permits, licenses, authorizations, and approvals required by all governmental authorities in connection with the construction and implementation of the Project;

(e) The Company agrees to indemnify, defend, and hold the County and the individual members, officers, agents and employees thereof harmless against any claim or loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, leasing, carrying out or operation of the Project, including without limitation any environmental liability. The defense obligation shall be supplied with legal counsel reasonably acceptable to the County. The Company agrees also agrees to reimburse or otherwise pay, on behalf of the County, any and all expenses not hereinbefore mentioned incurred by the County in connection with the Project, including the review and execution of the Resolution and this Agreement; and

(f) The Company agrees to use commercially reasonable efforts to meet, or cause to be met, the Investment Target during the Investment Period.

ARTICLE IV GENERAL PROVISIONS

Section 4.1. All commitments of the County under Article II hereof are subject to all of the provisions of the FILOT Act and the Multi-County Park Act, including, without limitation, the condition that nothing contained in this Agreement shall constitute or give rise to a pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing powers of either.

THIS AGREEMENT AND THE SPECIAL SOURCE CREDITS PROVIDED FOR HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE NET FEE PAYMENTS RECEIVED AND RETAINED BY THE COUNTY, AND DO NOT AND SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION, AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED FOR THE SPECIAL SOURCE CREDITS.

Section 4.2. All commitments of the County and the Company hereunder are subject to the condition that the County and the Company agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof, and the adoption by the County Council of an ordinance authorizing the execution and delivery of such documents and approving the terms thereof. If the parties enter into the Fee in Lieu of Tax and Special Source Credit Agreement, each party shall perform such further acts and adopt such further proceedings as may be required to faithfully implement its undertakings pursuant to such agreements.

Section 4.3. If for any reason this Agreement (as opposed to the Fee in Lieu of Tax and Special Source Credit Agreement, which are contemplated to be negotiated, signed and delivered subsequent to the execution and delivery of this Agreement) is not executed and delivered by the Companies on or before June 30, 2024, the provisions of this Agreement may be cancelled by the County by delivery of written notice of cancellation signed by the County Administrator and delivered to the Company; thereafter neither party shall have any further rights against the other and no third parties shall have any rights against either party except that the Company shall pay the out-of-pocket expenses to third parties of officers, agents and employees of the

County and counsel for the County incurred in connection with the authorization and approval of the Fee Agreement.

Section 4.4. The parties understand that the Company may choose not to proceed with the Project, in which event this Agreement shall be cancelled and, subject to parties' obligations described in Section 4.3 hereof, neither party shall have any further rights against the other, and no third party shall have any rights against either party.

Section 4.5. To the maximum extent allowable under the FILOT Act and the Multi-County Park Act, the Company may, with the prior consent of the County (which shall not be unreasonably withheld), assign (including, without limitation, absolute, collateral, and other assignments) all or part of their rights and/or obligations under this Agreement to one or more other entities, in connection with the Fee Agreement, without adversely affecting the benefits to the Company or its assignees pursuant hereto or pursuant to the FILOT Act or the Multi-County Park Act; provided, however, that the Company may make any such assignment to an affiliate of the Company without obtaining the consent of the County, to the extent permitted by law.

Section 4.6. This Agreement may not be modified or amended except by a writing signed by or on behalf of all parties by their duly authorized officers and approved by appropriate legal process. No amendment, modification, or termination of this Agreement, and no waiver of any provisions or consent required hereunder shall be valid unless consented to in writing by all parties.

Section 4.7. Nothing in this Agreement or any attachments hereto is intended to create, and no provision hereof should be so construed or interpreted as to create any third party beneficiary rights in any form whatsoever nor any form of partnership or other legal entity relationship between the County and the Companies.

Section 4.8. This Agreement constitutes the entire agreement between the parties regarding the matters set forth herein. This Agreement shall be interpreted by the laws of the State.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Inducement Agreement on the respective dates indicated below, as of the date first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Dan Tripp, Chairman of County Council,
Greenville County, South Carolina

By: _____
Joseph M. Kernell, County Administrator,
Greenville County, South Carolina

ATTEST:

By: _____
Regina McCaskill, Clerk to County Council
Greenville County, South Carolina

(SEAL)

[SIGNATURE PAGE 1 OF INDUCEMENT AGREEMENT]

PROJECT Irish

By: _____

Name: _____

Title: _____

Executed: October _____, 2023

[SIGNATURE PAGE 2 OF INDUCEMENT AGREEMENT]

EXHIBIT B
FORM OF FEE AND SSRC AGREEMENT

**FEE IN LIEU OF TAX AND
SPECIAL SOURCE CREDIT AGREEMENT**

Between

GREENVILLE COUNTY, SOUTH CAROLINA

and

Irish LLC

Dated as of October [], 2023

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**SUMMARY OF CONTENTS OF
FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT**

As permitted under Section 12-44-55(B), Code of Laws of South Carolina 1976, as amended (the “Code”), the parties have agreed to waive the requirements of Section 12-44-55 of the Code. The following is a summary of the key provisions of this Fee in Lieu of Tax and Special Source Credit Agreement. This summary is inserted for convenience only and does not constitute a part of this Fee in Lieu of Tax and Special Source Credit Agreement or a summary compliant with Section 12-44-55 of the Code.

Company Name:	Irish LLC	Project Name:	Project Irish
Projected Investment:	\$18,000,000	Projected Jobs:	N/A
Location (street):	In the City of Fountain Inn, Greenville County, South Carolina, generally bounded by [] to the west, [] to the south, [] to the east, and [] to the north	Tax Map Nos.:	[]
1. FILOT			
Required Investment:	\$18,000,000		
Investment Period:	5+ years	Ordinance No./Date:	October [], 2023
Assessment Ratio:	6%	Term (years):	15 years
Fixed Millage:	311.0 mills	Net Present Value (if yes, discount rate):	N/A
Clawback information:	FILOT Act Minimum Investment Requirement: repay FILOT v. <i>ad valorem</i> differential		
2. MCIP			
Included in an MCIP:	Yes		
If yes, Name & Date:	New Park to be Established (Anderson County)		
3. SSRC			
Total Amount:	N/A		
No. of Years	10		
Yearly Increments:	[]%, to be applied as set forth in Section 4.2, for up to ten (10) years.		
Clawback information:	Contract Minimum Investment Requirement: any Special Source Credits cease to be payable and the Company shall be retroactively liable to the County for the amount of the Special Source Credits previously received by the Company, plus interest at the rate payable for late payment of taxes.		

4. Other information	
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FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT

THIS FEE IN LIEU OF TAX AND SPECIAL SOURCE CREDIT AGREEMENT (the “*Fee Agreement*”) is made and entered into as of October [], 2023, by and between **GREENVILLE COUNTY, SOUTH CAROLINA** (the “*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (the “*State*”), acting by and through the Greenville County Council (the “*County Council*”) as the governing body of the County, and **IRISH LLC**, a limited liability company organized and existing under the laws of the State of South Carolina (the “*Company*”).

RECITALS

1. Title 12, Chapter 44 (the “*FILOT Act*”), Code of Laws of South Carolina, 1976, as amended (the “*Code*”), authorizes the County to (a) induce industries to locate in the State; (b) encourage industries and commercial enterprises now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (c) enter into a fee agreement with entities meeting the requirements of the FILOT Act, which identifies certain property of such entities as economic development property and provides for the payment of a fee in lieu of tax with respect to such property.

2. Sections 4-1-170 and 12-44-70 of the Code authorize the County to provide special source revenue credit (“*Special Source Credit*”) financing secured by and payable solely from revenues of the County derived from payments in lieu of taxes for the purposes set forth in Section 4-29-68 of the Code, namely: the defraying of the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate, and personal property, including but not limited to property used in the operation of an hotel in order to enhance the economic development of the County (collectively, “*Infrastructure*”).

3. The Company (as a Sponsor, within the meaning of the FILOT Act) desires to provide for the acquisition and construction of the Project (as defined herein) for purposes of an hotel in the County.

4. Based on information supplied by the Company, the County Council has evaluated the Project based on relevant criteria that include, but are not limited to, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created or maintained, and the anticipated costs and benefits to the County. Pursuant to Section 12-44-40(H)(1) of the FILOT Act, the County finds that: (a) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project will give rise to no pecuniary liability of the County or any incorporated municipality therein and to no charge against their general credit or taxing powers; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

5. The Project is located, or if not so located as of the date of this Fee Agreement the County intends to use its best efforts to so locate the Project, in a joint county industrial or business park created with an adjoining county in the State pursuant to agreement entered into pursuant to Section 4-1-170 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution.

6. By enactment of an Ordinance on October [], 2023, the County Council has authorized the County to enter into this Fee Agreement with the Company which classifies the Project as Economic Development Property under the FILOT Act and provides for the payment of fees in lieu of taxes and the provision of Special Source Credits to reimburse the Company for payment of the cost of certain Infrastructure in connection with the Project, all as further described herein.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 Definitions

The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

“Administration Expenses” shall mean the reasonable and necessary expenses incurred by the County with respect to this Fee Agreement, including without limitation reasonable attorney fees; provided, however, that no such expense shall be considered an Administration Expense until the County has furnished to the Company a statement in writing indicating the amount of such expense and the reason it has been or will be incurred.

“Affiliate” shall mean any corporation, limited liability company, partnership or other entity which owns all or part of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or which is owned in whole or in part by the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate) or by any partner, shareholder or owner of the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as well as any subsidiary, affiliate, individual or entity who bears a relationship to the Company (or with respect to a Sponsor Affiliate, such Sponsor Affiliate), as described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

“Base Year FILOT Amount” shall mean a portion of the FILOT Payments due with respect to each year hereunder equal to \$[]]. The Special Source Credits provided for herein shall not be applied to reduce the portion of the FILOT Payments represented by the Base Year FILOT Amount in any year.

“Change in Law” shall have the meaning set forth in Section 7.08 herein.

“City” shall mean the City of Fountain Inn, South Carolina, a body politic and corporate and political subdivision of the State.

“Code” shall mean the Code of Laws of South Carolina 1976, as amended.

“Commencement Date” shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date shall not be later than the last day of the property tax year which is three (3) years from the year in which the County and the Company enter into this Fee Agreement.

“Company” shall mean Irish LLC, a South Carolina limited liability company, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Company.

“Condemnation Event” shall mean any act of taking by a public or quasi-public authority through condemnation, reverse condemnation or eminent domain.

“Contract Minimum Investment Requirement” shall mean, with respect to the Project, investment by the Company and any Sponsor Affiliates of at least \$18,000,000 in Economic Development Property subject (non-exempt) to *ad valorem* taxation (in the absence of this Fee Agreement).

“County” shall mean Greenville County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the County Council as the governing body of the County.

“County Administrator” shall mean the Greenville County Administrator, or the person holding any successor office of the County.

“County Assessor” shall mean the Greenville County Assessor, or the person holding any successor office of the County.

“County Auditor” shall mean the Greenville County Auditor, or the person holding any successor office of the County.

“County Council” shall mean Greenville County Council, the governing body of the County.

“County Treasurer” shall mean the Greenville County Treasurer, or the person holding any successor office of the County.

“Credit Eligible FILOT Payments” shall mean the FILOT Payments, less the portion thereof constituting the Base Year FILOT Amount. The Special Source Credits provided for hereunder shall only be applied to reduce the Credit Eligible FILOT Payments.

“Credit Period” shall have the meaning set forth for such term in Section 4.02(a) hereof.

“Deficiency Amount” shall have the meaning set forth for such term in Section 4.03(a) hereof.

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

“Diminution in Value” in respect of the Project shall mean any reduction in the value, using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.01 of this Fee Agreement, of the items which constitute a part of the Project and which are subject to FILOT payments which may be caused by the Company’s or any Sponsor Affiliate’s removal and/or disposal of equipment pursuant to Section 4.04 hereof, or by its election to remove components of the Project as a result of any damage or destruction or any Condemnation Event with respect thereto.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the FILOT Act and this Fee Agreement and selected and identified by the Company or any Sponsor Affiliate in its annual filing of a SCDOR PT-300T or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

“Equipment” shall mean machinery, equipment, furniture, office equipment, and other tangible personal property, together with any and all additions, accessions, replacements, and substitutions thereto or therefor.

“Event of Default” shall mean any event of default specified in Section 6.01 hereof.

“Exemption Period” shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable portion of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year’s investment made during the Investment Period.

“Fee Agreement” shall mean this Fee in Lieu of Tax and Special Source Credit Agreement.

“FILOT” or ***“FILOT Payments”*** shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

“FILOT Act” shall mean Title 12, Chapter 44, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“FILOT Act Minimum Investment Requirement” shall mean, with respect to the Project, an investment of at least \$2,500,000 by the Company, or of at least \$5,000,000 by the Company and any Sponsor Affiliates in the aggregate, in Economic Development Property.

“Improvements” shall mean improvements to the Land, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor.

“Infrastructure” shall mean infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of the Project, within the meaning of Section 4-29-68 of the Code.

“Investment Period” shall mean, and shall be equal to, the Standard Investment Period.

“Land” means the land upon which the Project will be located, as described in Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with Section 3.01I hereof.

“MCIP” shall mean (i) the joint county industrial park established pursuant to the terms of the MCIP Agreement and (ii) any joint county industrial park created pursuant to a successor park agreement delivered by the County and a partner county in accordance with Section 4-1-170 of the MCIP Act, or any successor provision, with respect to the Project.

“MCIP Act” shall mean Title 4, Chapter 1, of the Code, and all future acts successor or supplemental thereto or amendatory thereof.

“MCIP Agreement” shall mean an agreement to establish a joint county industrial and business park entered into by and between the County and an adjoining partner county, now or hereafter entered into, as the same may be further amended or supplemented from time to time, or such other agreement as the County may enter with respect to the Project to offer the benefits of the Special Source Credits to the Company hereunder.

“Phase” or ***“Phases”*** in respect of the Project shall mean that the components of the Project are placed in service during more than one year during the Investment Period, and the word “Phase” shall therefore refer to the applicable portion of the Project placed in service in a given year during the Investment Period.

“Project” shall mean the Land and all the Equipment and Improvements that the Company determines to be necessary, suitable or useful for the purposes described in Section 2.02(b) hereof, to the extent determined by the Company and any Sponsor Affiliate to be a part of the Project and placed in service during the Investment Period, and any Replacement Property. Notwithstanding anything in this Fee Agreement to the contrary, the Project shall not include property which will not qualify for the FILOT pursuant to Section 12-44-110 of the FILOT Act, including without limitation property which has been subject to *ad valorem* taxation in the State prior to commencement of the Investment Period; provided, however, the Project may include (a) modifications which constitute an expansion of the real property portion of the Project and (b) the property allowed pursuant to Section 12-44-110(2) of the FILOT Act.

“Removed Components” shall mean components of the Project or portions thereof which the Company or any Sponsor Affiliate in its sole discretion, elects to remove from the Project pursuant to Section 4.04 hereof or as a result of any Condemnation Event.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment or any Improvement previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement to the fullest extent that the FILOT Act permits.

“Special Source Credits” shall mean the annual special source credits provided to the Company pursuant to Section 4.02 hereof.

“Sponsor Affiliate” shall mean an entity that joins with the Company and that participates in the investment in, or financing of, the Project and which meets the requirements under the FILOT Act to be

entitled to the benefits of this Fee Agreement with respect to its participation in the Project, all as set forth in Section 5.13 hereof.

“Standard Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years after the Commencement Date.

“State” shall mean the State of South Carolina.

“Termination Date” shall mean, with respect to each Phase of the Project, the end of the last day of the property tax year which is the 14th year following the first property tax year in which such Phase of the Project is placed in service; provided, that the intention of the parties is that the Company will make at least 15 annual FILOT payments under Article IV hereof with respect to each Phase of the Project; and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date shall mean the date of such termination.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the FILOT Act, as amended or supplemented from time to time, concerning, among other things, the necessity of obtaining County consent to certain transfers.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall include any and all amendments, supplements, addenda, and modifications to such agreement or document.

Section 1.02 Project-Related Investments

The term “investment” or “invest” as used herein shall include not only investments made by the Company and any Sponsor Affiliates, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Company or any Sponsor Affiliate with respect to the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT payments by the Company.

[End of Article I]

ARTICLE II REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.01 Representations, Warranties, and Agreements of the County

The County hereby represents, warrants, and agrees as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Company, the Project constitutes a “project” within the meaning of the FILOT Act.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the FILOT Act and that the Company selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in the State.

(d) The millage rate set forth in Step 3 of Section 4.01(a) hereof is 311.0 mills, which is the millage rate in effect with respect to the location of the proposed Project as of June 30, 2023, as permitted under Section 12-44-50(A)(1)(d) of the FILOT Act.

(e) The County will use its reasonable best efforts to cause the Project to be located in a MCIP for a term extending at least until the end of the period of FILOT Payments against which a Special Source Credit is to be provided under this Fee Agreement.

Section 2.02 Representations, Warranties, and Agreements of the Company

The Company hereby represents, warrants, and agrees as follows:

(a) The Company is organized and in good standing under the laws of the State of South Carolina, is duly authorized to transact business in the State, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to operate the Project as a “project” within the meaning of the FILOT Act as in effect on the date hereof. The Company intends to operate the Project for the purpose of an hotel in the County, and for such other purposes that the FILOT Act permits as the Company may deem appropriate.

(c) The execution and delivery of this Fee Agreement by the County has been instrumental in inducing the Company to locate the Project in the County.

(d) The Company, together with any Sponsor Affiliates, will use commercially reasonable efforts to meet, or cause to be met the FILOT Act Minimum Investment Requirement within the Investment Period.

[End of Article II]

ARTICLE III COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.01 The Project

(a) The Company intends and expects, together with any Sponsor Affiliate, to (i) construct and acquire the Project, (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Company anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2022[].

(b) Pursuant to the FILOT Act and subject to Section 4.03 hereof, the Company and the County hereby agree that the Company and any Sponsor Affiliates shall identify annually those assets which are eligible for FILOT payments under the FILOT Act and this Fee Agreement, and which the Company or any Sponsor Affiliate selects for such treatment by listing such assets in its annual PT-300T form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary notwithstanding, the Company and any Sponsor Affiliates shall not be obligated to complete the acquisition of the Project. However, if the Company, together with any Sponsor Affiliates, does not meet the FILOT Act Minimum Investment Requirement within the Investment Period, the provisions of Section 4.03 hereof shall control.

(c) The Company may add to the Project such real property, located in the same taxing District in the County as the original Land, as the Company, in its discretion, deems useful or desirable. In such event, the Company, at its expense, shall deliver an appropriately revised Exhibit A to this Fee Agreement, in form reasonably acceptable to the County.

Section 3.02 Diligent Completion

The Company agrees to use its reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.03 Filings and Reports

(a) Each year during the term of the Fee Agreement, the Company and any Sponsor Affiliates shall deliver to the County, the County Auditor, the County Assessor and the County Treasurer a copy of their most recent annual filings with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department.

(b) The Company shall cause a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor, and to their counterparts in the partner county to the MCIP Agreement, the County Administrator, and the Department within thirty (30) days after the date of execution and delivery of this Fee Agreement by all parties hereto.

(c) Each of the Company and any Sponsor Affiliates agree to maintain complete books and records accounting for the acquisition, financing, construction, and operation of the Project. Such books and records shall (i) permit ready identification of the various Phases and components thereof; (ii) confirm the dates on which each Phase was placed in service; and (iii) include copies of all filings made by the Company and any such Sponsor Affiliates in accordance with Section 3.03(a) or (b) above with respect to property placed in service as part of the Project.

[End of Article III]

ARTICLE IV FILOT PAYMENTS

Section 4.01 FILOT Payments

(a) Pursuant to Section 12-44-50 of the FILOT Act, the Company and any Sponsor Affiliates, as applicable, are required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the FILOT Act, the County and the Company have negotiated the amount of the FILOT Payments in accordance therewith. The Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company and any Sponsor Affiliates, as applicable, shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual FILOT Payments shall be in accordance with the following procedure (subject, in any event, to the procedures required by the FILOT Act):

Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using original income tax basis for State income tax purposes for any real property and Improvements without regard to depreciation (provided, the fair market value of real property, as the FILOT Act defines such term, that the Company and any Sponsor Affiliates obtains by construction or purchase in an arms-length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value is by appraisal) and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The fair market value of the real property for the first year of the Exemption Period remains the fair market value of the real property and Improvements for the life of the Exemption Period. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company and any Sponsor Affiliates if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the FILOT Act specifically disallows.

Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the up to 9 years thereafter.

Step 3: Use a millage rate of 311.0 mills during the Exemption Period against the taxable value to determine the amount of the FILOT Payments due during the Exemption Period on the applicable payment dates.

(b) In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Act and/or the herein-described FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof (without increasing the amount of incentives being afforded herein) and so as to afford the Company and any Sponsor Affiliates with the benefits to be derived herefrom, the intention of the County being to offer the Company and such Sponsor Affiliates a strong inducement to locate the Project in the County. If the Economic Development Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Company and any Sponsor Affiliates shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company and such Sponsor Affiliates. Any amount determined to be due and owing to the County from the Company and such Sponsor Affiliates, with respect to a year or years for which the Company or such Sponsor Affiliates previously remitted FILOT Payments to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company or such Sponsor

Affiliates would be entitled if the Economic Development Property was not and had not been Economic Development Property under the Act; and (ii) be reduced by the total amount of FILOT Payments the Company or such Sponsor Affiliates had made with respect to the Project pursuant to the terms hereof.

Section 4.02 Special Source Credits

(a) In accordance with and pursuant to Section 12-44-70 of the FILOT Act and Section 4-1-175 of the MCIP Act, in order to reimburse the Company for qualifying capital expenditures incurred for costs of the Infrastructure during the Investment Period, the Company shall be entitled to receive, and the County agrees to provide, annual Special Source Credits against the Company's FILOT Payments for a period of up to ten (10) years commencing with the first year that the Project is placed in service (the "Credit Period") equal to [] percent ([]) of the Credit Eligible FILOT Payments, provided, however, the aggregate credit shall not exceed \$750,000.

(b) Notwithstanding anything herein to the contrary, under no circumstances shall the Company be entitled to claim or receive any abatement of *ad valorem* taxes for any portion of the investment in the Project for which a Special Source Credit is taken.

(c) In no event shall the aggregate amount of all Special Source Credits claimed by the Company exceed the amount expended with respect to the Infrastructure at any point in time. The Company shall be responsible for making written annual certification as to compliance with the provisions of the preceding sentence through the delivery of a certification in substantially the form attached hereto as Exhibit B.

(d) Should the Contract Minimum Investment Requirement not be met by the end of the Investment Period, any Special Source Credits otherwise payable under this Fee Agreement shall no longer be payable by the County and the Company shall be retroactively liable to the County for the amount of the Special Source Credits previously received by the Company, plus interest at the rate payable for late payment of taxes. Any amounts determined to be owing pursuant to the foregoing sentence shall be payable to the County on or before the thirtieth (30th) day following the last day of the Investment Period.

(e) As provided in Section 4-29-68 of the Code, to the extent any Special Source Credit is taken against fee in lieu of tax payment on personal property, and the personal property is removed from the Project at any time during the term of this Fee Agreement (and not replaced with qualifying replacement property), the amount of the fee in lieu of taxes due on the personal property for the year in which the personal property was removed from the Project shall be due for the two (2) years immediately following such removal.

(f) Each annual Special Source Credit shall be reflected by the County Auditor or other authorized County official or representative on each bill for FILOT Payments sent to the Company by the County for each applicable property tax year, by reducing such FILOT Payments otherwise due by the amount of the Special Source Credit to be provided to the Company for such property tax year.

(g) The Special Source Credits are payable solely from the FILOT Payments, are not secured by, or in any way entitled to, a pledge of the full faith, credit or taxing power of the County, are not an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation, are payable solely from a special source that does not include revenues from any tax or license, and are not a pecuniary liability of the County or a charge against the general credit or taxing power of the County.

Section 4.03 Failure to Achieve Minimum Investment Requirement

(a) In the event the Company, together with any Sponsor Affiliates, fails to meet the FILOT Act Minimum Investment Requirement by the end of the Investment Period, this Fee Agreement shall terminate and the Company and such Sponsor Affiliates shall pay the County an amount which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Company and such Sponsor Affiliates would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of FILOT payments the Company and such Sponsor Affiliates have made with respect to the Economic Development Property (after taking into account any Special Source Credits received) (such excess, a “*Deficiency Amount*”) for the period through and including the end of the Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be payable to the County on or before the thirtieth (30th) day following the last day of the Investment Period.

(b) As a condition to the FILOT benefit provided herein, the Company agrees to provide the County Administrator, the County Assessor, the County Auditor and the County Treasurer with an annual certification as to investment in the Project. Such certification shall be in substantially the form attached hereto as Exhibit C and shall be due no later than the May 1 following the immediately preceding December 31 of each year during the Investment Period.

Section 4.04 Removal of Equipment

Subject, always, to the other terms and provisions of this Fee Agreement, the Company and any Sponsor Affiliates shall be entitled to remove and dispose of components of the Project from the Project in its sole discretion with the result that said components shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement. Economic Development Property is disposed of only when it is scrapped or sold or removed from the Project. If it is removed from the Project, it is subject to *ad valorem* property taxes to the extent the Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.05 FILOT Payments on Replacement Property

If the Company or any Sponsor Affiliate elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Company or any Sponsor Affiliate otherwise utilizes Replacement Property, then, pursuant and subject to the provisions of Section 12-44-60 of the FILOT Act, the Company or such Sponsor Affiliate shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

(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 Economic Development Property subject to the Fee, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development 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 annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is entitled to treatment under the Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and

(ii) The new Replacement Property which qualifies for the FILOT shall be recorded using its income tax basis, and the calculation of the FILOT shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the FILOT.

Section 4.06 Reductions in Payment of Taxes Upon Diminution in Value; Investment Maintenance Requirement

In the event of a Diminution in Value of the Economic Development Property, the Payment in Lieu of Taxes with regard to the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property as determined pursuant to Step 1 of Section 4.01(a) hereof; *provided, however*, that if at any time subsequent to the end of the Investment Period, the total value of the Project remaining in the County based on the original income tax basis thereof (that is, without regard to depreciation), is less than the FILOT Act Minimum Investment Requirement, then beginning with the first payment thereafter due hereunder and continuing until the Termination Date, the Project shall no longer be entitled to the incentive provided in Section 4.01, and the Company and any Sponsor Affiliate shall therefore commence to pay regular *ad valorem* taxes thereon, calculated as set forth in Section 4.01(b) hereof.

[End of Article IV]

ARTICLE V PARTICULAR COVENANTS AND AGREEMENTS

Section 5.01 **Cessation of Operations**

Notwithstanding any other provision of this Fee Agreement, each of the Company and any Sponsor Affiliates acknowledges and agrees that County's obligation to provide the FILOT incentive may end, and this Fee Agreement may be terminated by the County, at the County's sole discretion, if the Company ceases operations at the Project for a period of six (6) months consecutively; provided, however, that the Special Source Credits provided for in this Fee Agreement shall automatically terminate if the Company ceases operations as set forth in this Section 5.01. Each of the Company and any Sponsor Affiliates agrees that if this Fee Agreement is terminated pursuant to this subsection, that under no circumstance shall the County be required to refund or pay any monies to the Company or any Sponsor Affiliates.

Section 5.02 **Rights to Inspect**

The Company agrees that the County and its authorized agents shall have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice, to have access to examine and inspect the Company's South Carolina property tax returns, as filed. The aforesaid rights of examination and inspection shall be exercised only upon such reasonable and necessary terms and conditions as the Company shall prescribe and shall be subject to the provisions of Section 5.03 hereof.

Section 5.03 **Confidentiality**

The County acknowledges and understands that the Company and any Sponsor Affiliates may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (herein "Confidential Information"). In this regard, the Company and any Sponsor Affiliates may clearly label any Confidential Information delivered to the County "Confidential Information." The County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall disclose or otherwise divulge any such clearly labeled Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law. Each of the Company and any Sponsor Affiliates acknowledge that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. In the event that the County is required to disclose any Confidential Information obtained from the Company or any Sponsor Affiliates to any third party, the County agrees to provide the Company and such Sponsor Affiliates with as much advance notice as is reasonably possible of such requirement before making such disclosure, and to cooperate reasonably with any attempts by the Company and such Sponsor Affiliates to obtain judicial or other relief from such disclosure requirement.

Section 5.04 **Limitation of County's Liability**

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 (it being intended herein that any obligations of the County with respect to the Special Source Credits shall be payable only from FILOT payments received from or payable by the Company or any Sponsor Affiliates); provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

Section 5.05 **Mergers, Reorganizations and Equity Transfers**

Each of the Company and any Sponsor Affiliates acknowledges that any mergers, reorganizations or consolidations of the Company and such Sponsor Affiliates may cause the Project to become ineligible for negotiated fees in lieu of taxes under the FILOT Act absent compliance by the Company and such Sponsor Affiliates with the Transfer Provisions; provided that, to the extent provided by Section 12-44-120 of the

FILOT Act or any successor provision, any financing arrangements entered into by the Company or any Sponsor Affiliates with respect to the Project and any security interests granted by the Company or any Sponsor Affiliates in connection therewith shall not be construed as a transfer for purposes of the Transfer Provisions. Notwithstanding anything in this Fee Agreement to the contrary, it is not intended in this Fee Agreement that the County shall impose transfer restrictions with respect to the Company, any Sponsor Affiliates or the Project as are any more restrictive than the Transfer Provisions.

Section 5.06 Indemnification Covenants.

(a) Notwithstanding any other provisions in this Fee Agreement or in any other agreements with the County, the Company agrees to indemnify, defend and save the County, its County Council members, elected officials, officers, employees, servants and agents (collectively, the “Indemnified Parties”) harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on the Project or the Land by the Company or any Sponsor Affiliate, their members, officers, shareholders, employees, servants, contractors, and agents during the Term, and, the Company further, shall indemnify, defend and save the Indemnified Parties harmless against and from all claims arising during the Term from (i) entering into and performing its obligations under this Fee Agreement, (ii) any condition of the Project, (iii) any breach or default on the part of the Company or any Sponsor Affiliate in the performance of any of its obligations under this Fee Agreement, (iv) any act of negligence of the Company or any Sponsor Affiliate or its agents, contractors, servants, employees or licensees, (v) any act of negligence of any assignee or lessee of the Company or any Sponsor Affiliate, or of any agents, contractors, servants, employees or licensees of any assignee or lessee of the Company or any Sponsor Affiliate, or (vi) any environmental violation, condition, or effect with respect to the Project. The Company shall indemnify, defend and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County, the Company shall defend it in any such action, prosecution or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld).

(b) Notwithstanding the fact that it is the intention of the parties that the Indemnified Parties shall not incur pecuniary liability by reason of the terms of this Fee Agreement, or the undertakings required of the County hereunder, by reason of the granting of the FILOT, by reason of the execution of this Fee Agreement, by the reason of the performance of any act requested of it by the Company or any Sponsor Affiliate, or by reason of the County’s relationship to the Project or by the operation of the Project by the Company or any Sponsor Affiliate, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County or any of the other Indemnified Parties should incur any such pecuniary liability, then in such event the Company shall indemnify, defend and hold them harmless against all claims by or on behalf of any person, firm or corporation, 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, and upon notice, the Company shall defend them in any such action or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld); provided, however, that such indemnity shall not apply to the extent that any such claim is attributable to (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Fee Agreement by the County.

(c) Notwithstanding anything in this Fee Agreement to the contrary, the above-referenced covenants insofar as they pertain to costs, damages, liabilities or claims by any Indemnified Party resulting from any of the above-described acts of or failure to act by the Company or any Sponsor Affiliate, shall survive any termination of this Fee Agreement.

Section 5.07 Qualification in State.

Each of the Company and any Sponsor Affiliates warrant that it is duly qualified to do business in the State, and covenants that it will continue to be so qualified so long as it operates any portion of the Project.

Section 5.08 No Liability of County's Personnel

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 shall be binding upon any member of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any elected official, officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any elected official, officer, agent, servant or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

Section 5.09 Assignment, Leases or Transfers

The County agrees that the Company and any Sponsor Affiliates may at any time (a) transfer all or any of their rights and interests under this Fee Agreement or with respect to all or any part of the Project, or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing or other entity with respect to this Fee Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Company or any Sponsor Affiliate or operates such assets for the Company or any Sponsor Affiliate or is leasing the portion of the Project in question from the Company or any Sponsor Affiliate. In order to preserve the FILOT benefit afforded hereunder with respect to any portion of the Project so transferred, leased, financed, or otherwise affected: (i) except in connection with any transfer to an Affiliate of the Company or of any Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above (as to which such transfers the County hereby consents), the Company and any Sponsor Affiliates, as applicable, shall obtain the prior consent or subsequent ratification of the County which consent or subsequent ratification may be granted by the County in its sole discretion; (ii) except when 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 financing entity assumes in writing the obligations of the Company or any Sponsor Affiliate, as the case may be, hereunder, or when the County consents in writing, no such transfer shall affect or reduce any of the obligations of the Company and any Sponsor Affiliates hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make FILOT Payments hereunder, the transferee shall assume the then current basis of, as the case may be, the Company or any Sponsor Affiliates (or prior transferee) in the portion of the Project transferred; (iv) the Company or applicable Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department a true and complete copy of any such transfer agreement; and (v) the Company, the Sponsor Affiliates and the transferee shall comply with all other requirements of the Transfer Provisions.

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

Each of the Company and any Sponsor Affiliates acknowledges that such a transfer of an interest under this Fee Agreement or in the Project may cause all or part of the Project to become ineligible for the FILOT benefit afforded hereunder or result in penalties under the FILOT Act absent compliance by the Company and any Sponsor Affiliates with the Transfer Provisions.

Section 5.10 Administration Expenses

The Company agrees to pay any Administration Expenses to the County when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Fee Agreement or the date which is forty-five (45) days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's or Indemnified Party's right to receive such payment, specifying the nature of such expense and requesting payment of same; provided, however, that the Company shall not be required to pay or reimburse the County's legal fees and expenses incurred in connection with the drafting, review and negotiation of this Fee Agreement and associated concurrent documents and agreements in excess of \$7,500.00. In addition, the Company agrees to pay all legal fees and expenses incurred by the City associated with the City's review of this Fee Agreement, and the intergovernmental agreement entered into by and between the City and the County in connection herewith, and all related documents, in an amount not to exceed \$7,500.00. Further, the Company shall reimburse the City for all legal fees and expenses incurred by the City in the event of any dispute regarding the terms of this Fee Agreement or the incentives provided hereunder. If the Company fails to pay such expenses within thirty (30) days of receipt of the City's written invoice therefor, then such failure shall constitute an event of default under this Agreement, subject to any cure rights as may be applicable as set forth herein.

Section 5.11 Priority Lien Status

The County's right to receive FILOT payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the FILOT Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code.

Section 5.12 Interest; Penalties

In the event the Company or any Sponsor Affiliate should fail to make any of the payments to the County required under this Fee Agreement, then the item or installment so in default shall continue as an obligation of the Company or such Sponsor Affiliate until the Company or such Sponsor Affiliate shall have fully paid the amount, and the Company and any Sponsor Affiliates agree, as applicable, to pay the same with interest thereon at a rate, unless expressly provided otherwise herein and in the case of FILOT payments, of 5% per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT payments, at the rate for non-payment of *ad valorem* taxes under State law and subject to the penalties the law provides until payment.

Section 5.13 Sponsor Affiliates

The Company may designate from time to time any Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(20) and 12-44-130 of the FILOT Act, which Sponsor Affiliates shall join with the Company and make investments with respect to the Project, or participate in the financing of such investments, and shall agree to be bound by the terms and provisions of this Fee Agreement pursuant to the terms of a written joinder agreement with the County and the Company, in form reasonably acceptable to the County. The Company shall provide the County and the Department with written notice of any Sponsor Affiliate designated pursuant to this Section within ninety (90) days after the end of the calendar year during which any such Sponsor Affiliate has placed in service any portion of the Project, in accordance with Section 12-44-130(B) of the FILOT Act.

[End of Article V]

ARTICLE VI DEFAULT

Section 5.14 Events of Default

The following shall be “Events of Default” under this Fee Agreement, and the term “Event of Default” shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company or any Sponsor Affiliate to make the FILOT Payments described in Section 4.01 hereof, or any other amounts payable to the County under this Fee Agreement when due, which failure shall not have been cured within thirty (30) days following receipt of written notice thereof from the County; provided, however, that the Company and any Sponsor Affiliates shall be entitled to all redemption rights granted by applicable statutes; or

(b) A representation or warranty made by the Company or any Sponsor Affiliate hereunder which is deemed materially incorrect when deemed made; or

(c) Failure by the Company or any Sponsor Affiliate to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of thirty (30) days after written notice from the County to the Company and such Sponsor Affiliate specifying such failure and requesting that it be remedied, unless the Company or such Sponsor Affiliate shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Company or such Sponsor Affiliate is diligently pursuing corrective action; or

(d) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of thirty (30) days after written notice from the Company to the County and any Sponsor Affiliates specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action.

Section 5.15 Remedies Upon Default

(a) Whenever any Event of Default by the Company or any Sponsor Affiliate (the “*Defaulting Entity*”) shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions as to the Defaulting Entity, only:

(i) terminate this Fee Agreement; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder.

In no event shall the Company or any Sponsor Affiliate be liable to the County or otherwise for monetary damages resulting from the Company’s (together with any Sponsor Affiliates) failure to meet the Contract Minimum Investment Requirement other than as expressly set forth in this Fee Agreement.

In addition to all other remedies provided herein, the failure to make FILOT payments shall give rise to a lien for tax purposes as provided in Section 12-44-90 of the FILOT Act. In this regard, and notwithstanding anything in this Fee Agreement to the contrary, the County may exercise the remedies that general law (including Title 12, Chapter 49 of the Code) provides with regard to the enforced collection of *ad valorem* taxes to collect any FILOT payments due hereunder.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Company and any Sponsor Affiliate may take one or more of the following actions:

- (i) bring an action for specific enforcement;
- (ii) terminate this Fee Agreement as to the acting party; or
- (iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 5.16 **Reimbursement of Legal Fees and Expenses and Other Expenses**

Upon the occurrence of an Event of Default hereunder by the Company or any Sponsor Affiliate, should the County be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 5.17 **No Waiver**

No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

[End of Article VI]

ARTICLE VII MISCELLANEOUS

Section 6.01 Notices

Any notice, election, demand, request, or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

If to the Company:

Irish LLC
Attn: []
[]
[]

With a copy to:

[]
Attn: []
Attn: []
[]
[]

If to the County:

Greenville County
Attn: County Administrator
301 University Ridge, Suite 2400
Greenville, South Carolina 29601

With a copy to:

Greenville County Attorney
301 University Ridge, Suite 2400
Greenville, South Carolina 29601

Further, each notice, election, demand, request, or other communication to be provided under this Fee Agreement shall also be provided to the City, provided, however, “notice” to the City does not impose any obligation on the City to take, or forebear from taking, any action, using the same delivery method as elected by the party providing the notice, election, demand, request, or other communication, addressed as follows:

City of Fountain Inn, South Carolina
Attn: City Administrator
200 North Main Street
Fountain Inn, South Carolina 29644

With a copy to:

King Kozlarek Law LLC
Attn: Michael E. Kozlarek, Esq.
Post Office Box 565
Greenville, South Carolina 29602-0565

Section 6.02 Binding Effect

This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Company and any Sponsor Affiliates, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 6.03 Counterparts

This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 6.04 Governing Law

This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 6.05 Headings

The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 6.06 Amendments

The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 6.07 Further Assurance

From time to time, and at the expense of the Company and any Sponsor Affiliates, the County agrees to execute and deliver to the Company and any such Sponsor Affiliates such additional instruments as the Company or such Sponsor Affiliates may reasonably request and as are authorized by law and reasonably within the purposes and scope of the FILOT Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 6.08 Invalidity; Change in Laws

In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the FILOT Act, to the extent not inconsistent with any of the explicit terms hereof.

Except as is set forth below, if any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Company and any Sponsor Affiliates and the County with the respective benefits to each to be derived herefrom; provided, however, that if it is determined that the Project cannot lawfully be included in a MCIP, or that it is unlawful for Special Source Credits to be provided in connection with the Project, whether as a result of a final and unappealable decision of the South Carolina Court of Appeals or the South Carolina Supreme Court or as a result of a change in or modification of the MCIP Act, the FILOT Act

or any other provision of the Code or Constitution of the State (any such court decision or change or modification being a “Change in Law”), then this Fee Agreement shall terminate without further action of either party, and neither the County nor the City shall be obligated to provide any substitute form of financial incentive, tax incentive or any other alternative relief whatsoever to the Company or any Sponsor Affiliate. Further, any reformed Fee Agreement shall include the limitations of the County’s liability set forth in Sections 4.02(h) and 5.04 of this Fee Agreement.

In case a change in the FILOT Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Company and any Sponsor Affiliates and the FILOT incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, and, if the County Council so decides, to provide the Company and any Sponsor Affiliates with the benefits of such change in the FILOT Act or South Carolina laws.

Section 6.09 Termination by Company

The Company is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with thirty (30) days’ written notice; *provided, however*, that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto (including without limitation any amounts owed with respect to Section 4.03 hereof); and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to *ad valorem* taxation or such other taxation or fee in lieu of taxation that would apply absent this Fee Agreement. The Company’s obligation to make FILOT Payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 6.10 Entire Understanding

This Fee Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 6.11 Waiver

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

Section 6.12 Business Day

In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

[End of Article VII]

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by the Chairman of County Council and the County Administrator and to be attested by the Clerk of the County Council; and the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Dan Tripp, Chairman of County Council
Greenville County, South Carolina

By: _____
Joseph M. Kernell, County Administrator
Greenville County, South Carolina

ATTEST:

By: _____
Regina McCaskill, Clerk to County Council
Greenville County, South Carolina

[Signature Page 1 to Fee in Lieu of Tax and Special Source Credit Agreement]

IN WITNESS WHEREOF, Irish LLC has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

Irish LLC

By:_____

Name:_____

Title:_____

[Signature Page 2 to Fee in Lieu of Tax and Special Source Credit Agreement]

EXHIBIT A
LEGAL DESCRIPTION

In the City of Fountain Inn, Greenville County, South Carolina, generally bounded by [] to the west, [] to the south, [] to the east, and [] to the north, generally depicted inside the heavy-marked, black line on the image below, and consisting of the following parcel(s) (Greenville County):

[]

EXHIBIT B

INFRASTRUCTURE INVESTMENT CERTIFICATION

I _____, the _____ of Irish LLC (the ***“Company”***), do hereby certify in connection with Section 4.02 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of October [], 2023, between Greenville County, South Carolina, and the Company (the ***“Agreement”***), as follows:

(1) As of the date hereof, the aggregate amount of Special Source Revenue Credits previously received by the Company and any Sponsor Affiliates is \$_____.

(2) As of December 31, 20__, the aggregate amount of investment in costs of Infrastructure incurred by the Company and any Sponsor Affiliates during the Investment Period is not less than \$_____.

(3) Of the total amount set forth in (2) above, \$_____ pertains to the investment in personal property, including machinery and equipment, at the Project. The applicable personal property, and associated expenditures, are listed below:

Personal Property Description

Investment Amount

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

Irish LLC

By:_____

Name:_____

Title:_____

EXHIBIT C

INVESTMENT CERTIFICATION

I _____, the _____ of Irish LLC (the ***“Company”***), do hereby certify in connection with Section 4.03 of the Fee in Lieu of Tax and Special Source Credit Agreement dated as of October [], 2023, between Greenville County, South Carolina, and the Company (the ***“Agreement”***), as follows:

(1) The total investment made by the Company and any Sponsor Affiliates in the Project during the calendar year ending December 31, 20__ was \$_____.

(2) The cumulative total investment made by the Company and any Sponsor Affiliates in the Project from the period beginning _____, 20__ (that is, the beginning date of the Investment Period) and ending December 31, 20__, 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__.

Irish LLC

By:_____

Name:_____

Title:_____

EXHIBIT C
FORM OF FEE ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN GREENVILLE COUNTY, SOUTH CAROLINA AND Irish LLC WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF TAXES, INCLUDING THE PROVISION OF CERTAIN SPECIAL SOURCE CREDITS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, GREENVILLE COUNTY, SOUTH CAROLINA (the *“County”*), acting by and through its County Council (the *“County Council”*), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the *“FILOT Act”*), Title 4, Chapter 1 (the *“Multi-County Park Act”*), and Title 4, Chapter 29, of the Code of Laws of South Carolina 1976, as amended, to enter into agreements with industry whereby the industry would pay fees-in-lieu-of taxes with respect to qualified projects; to provide infrastructure credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure enhancing the economic development of the County; through all such powers the development of the State of South Carolina (the *“State”*) will be promoted and trade developed by inducing commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, 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 provided locally; and

WHEREAS, pursuant to the FILOT Act, and in order to induce investment in the County, the County did previously enter into an Inducement Agreement dated September [], 2023 (the *“Inducement Agreement”*) with Irish LLC, a South Carolina limited liability company (the *“Company”*) (which was known to the County at the time as *“Project Irish”*), with respect to the acquisition, construction, and installation of land, buildings, improvements, fixtures, furnishings and other real and/or tangible personal property for purposes of an hotel, for the County (collectively, the *“Project”*); and

WHEREAS, the Company has represented that the Project will involve an investment of not less than \$18,000,000 in the County, within the Investment Period (as such term is defined in the hereinafter defined Fee Agreement); and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a “project” and “economic development property” as such terms are defined in the FILOT Act, and that the Project would serve the purposes of the FILOT Act; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County intends to cause the Project, to the extent not already therein located, to be placed in a joint county industrial and business park such that the Project will receive the benefits of the Multi-County Park Act; and

WHEREAS, pursuant to the Inducement Agreement, the County has agreed to, among other things, (a) enter into a Fee in Lieu of Tax and Special Source Credit Agreement with the Company (the *“Fee Agreement”*), whereby the County would provide therein for a payment of a fee-in-lieu-of taxes

by the Company with respect to the Project, and (b) provide for certain special source credits to be claimed by the Company against its payments of fees-in-lieu-of taxes with respect to the Project pursuant to Section 4-1-175 of the Multi-County Park Act; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Fee Agreement which the County proposes to execute and deliver; and

WHEREAS, it appears that the documents above referred to, which are now before this meeting, are in appropriate form and are an appropriate instrument to be executed and delivered or approved by the County for the purposes intended;

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

Section 1. Based on information supplied by the Company, it is hereby found, determined and declared by the County Council, as follows:

(a) The Project will constitute a “project” and “economic development property” as said terms are 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 is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally;

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

(d) 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; and

(e) The benefits of the Project are anticipated to be greater than the costs.

Section 2. The form, terms and provisions of the Fee Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The Chairman of County Council and/or the County Administrator are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Fee Agreement to be delivered to the Company and cause a copy of the same to be delivered to the Greenville County Auditor, Assessor and Treasurer. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the County Administrator, upon advice of counsel, his execution thereof to constitute conclusive evidence of his approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting.

Section 3. The Chairman of County Council, the County Administrator and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County thereunder.

Section 4. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be

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

Section 5. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the County Council.

ENACTED in meeting duly assembled this _____ day of October, 2023.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Dan Tripp, Chairman of County Council
Greenville County, South Carolina

By: _____
Joseph M. Kernell, County Administrator
Greenville County, South Carolina

ATTEST:

By: _____
Regina McCaskill, Clerk to County Council
Greenville County, South Carolina

First Reading: September [], 2023
Second Reading: October [], 2023
Public Hearing: October [], 2023
Third Reading: October [], 2023

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned Clerk to County Council of Greenville County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received unanimous approval, by the County Council at its meetings of September [], 2023, October [], 2023, and October [], 2023, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

Dated: October [], 2023

Regina McCaskill, Clerk to County Council,
Greenville County, South Carolina

EXHIBIT D
FORM OF INTERGOVERNMENTAL AGREEMENT

STATE OF SOUTH CAROLINA	)	INTERGOVERNMENTAL
	)	AGREEMENT
COUNTY OF GREENVILLE	)	
	)	
CITY OF FOUNTAIN INN	)	AN INTERGOVERNMENTAL
	)	AGREEMENT BETWEEN
	)	GREENVILLE COUNTY, SOUTH
	)	CAROLINA AND THE CITY OF
	)	FOUNTAIN INN, SOUTH CAROLINA
	)	PERTAINING TO THE ADDITION
	)	OF CERTAIN PROPERTY TO A
	)	JOINT COUNTY INDUSTRIAL AND
	)	BUSINESS PARK WITHIN
	)	GREENVILLE COUNTY AND THE
	)	CITY OF GREENVILLE

WHEREAS, Greenville County, South Carolina (the “County”), acting by and through its County Council (the “County Council”) is empowered under and pursuant to the provisions of the Code of Laws of South Carolina, 1976, as amended (the “Code”), and specifically, Title 4, Chapter 1 of the Code (the “Multi-County Park Act”) to enter into agreements with other counties within the State of South Carolina (the “State”) for the purpose of creating joint county industrial and business parks (“MCIP”), pursuant to which certain state tax credits are made available to investors locating, improving, or expanding projects within such parks, through which the economic development of the County and the State will be promoted and trade developed by inducing manufacturing and certain other business enterprises to locate in and remain in the State, and thus utilize and employ the manpower and resources of the State; and

WHEREAS, Irish LLC (the “Company”), has represented to the County that the Company intends to develop, install or operate, as applicable, an hotel (the “Project”) located at a site identified in Exhibit A attached hereto (the “Land”) located in the City of Fountain Inn, South Carolina (the “City”); and

WHEREAS, the County, pursuant to certain negotiations heretofore undertaken with the Company with respect to the Project intends to enter into a Fee-in-Lieu of Tax and Special Source Credit Agreement (the “FILOT Agreement”) with the Company, pursuant to which the County has agreed, among other things, to use its best efforts to cause the Land and the Project to be included in a MCIP (the “Park”) to be established by and between the County and Anderson County or another adjoining county (Anderson County or such other adjoining county, as applicable, being referred to herein as, the “Partner County”) pursuant to an agreement entered into by and between the County and the Partner County (the “Park Agreement”); and

WHEREAS, the FILOT Agreement provides for a [] percent ([]) special source revenue credit to be applied against a portion of the fees in lieu of tax to be paid by the Company under the FILOT Agreement for a period of up to ten (10) years, provided, however, the aggregate credit shall not exceed \$750,000, subject to the terms and conditions of the FILOT Agreement (the “Credit”); and

WHEREAS, pursuant to the Multi-County Park Act and the Park Agreement, fees in lieu of ad valorem taxes shall be paid by or on behalf of all owners the Land and all improvements and personal property located thereon (the “Property”), including, but not limited to, the fees in lieu of taxes paid by the Company with respect to the Land and the Project under the FILOT Agreement (all such fees in lieu of taxes being, the “Park Fees”); and

WHEREAS, because the Land is located within the corporate limits of the City, the Multi-County Park Act requires the consent of the City before the Land may be included in the Park; and

WHEREAS, the property tax revenue derived from the Land and improvements thereon with respect to the 2022 property tax year was approximately (and not greater than) \$[]; and

WHEREAS, the City and the County have agreed that the amount of \$[] (the “Base Year FILOT Amount”) should not be subject to reduction by the Credit or payment of any amount to the Partner County under the Park Agreement, and should be distributed to the various overlapping taxing entities according to the distribution set forth on Exhibit B attached hereto (the “Tax Distribution”), which Tax Distribution is based upon the millage levied by such taxing entities in proportion to the total millage levied with respect to the Property in effect as of June 30, 2023; and

WHEREAS, the City desires to consent to the County including the Land and the Project into the Park, provided that the County agrees to distribute the Park Fees in accordance to the provisions of this Intergovernmental Agreement (the “Intergovernmental Agreement”); and

WHEREAS, the County agrees with the City’s position regarding distribution of the Park Fees, and desires to include the Land and the Project in the Park in accordance with that understanding; and

WHEREAS, the County and the City have reduced their mutual understandings regarding the City’s consent to the County’s addition of the Land to the Park, to include the Company’s investment in the Project located on the Land, and the mutual understanding regarding distribution of the Park Fees, to this Intergovernmental Agreement which is a material inducement to the City’s consent to include the Land and the Project in the Park.

NOW, THEREFORE, it is hereby agreed between the County and the City that:

1. The City consents to the inclusion of the Property in the Park. In consideration of the City’s consent to inclusion of the Property in the Park, the County agrees annually to distribute the Park Fees received by the County, as follows:

First, an amount of Park Fees equal to the Base Year FILOT Amount shall be distributed in accordance with the Tax Distribution set forth on Exhibit B to the taxing districts and taxing entities identified therein. The Base Year FILOT Amount shall not be subject to application of the Credit under the FILOT Agreement. All other Park Fees constituting “FILOT Payments” as defined in the FILOT Agreement shall be subject to application of the Credit as set forth therein.

Second, one percent (1%) of the Park Fees remaining after the *First* step above (and after application of the Credit pursuant to the FILOT Agreement) shall be paid to the Partner County pursuant to the Park Agreement; and

Third, any remaining Park Fees after the *First* and *Second* steps above shall be distributed to the taxing districts and taxing entities which overlap the Land in a pro-rata fashion based on comparative millage rates for the year in question of such taxing districts and entities.

2. Upon the expiration or earlier termination of the FILOT Agreement, the Land and the Project shall be automatically removed from the Park.

3. The County agrees not to consent to any assignment of the FILOT Agreement (to the extent the County’s consent is required under the FILOT Agreement) or agree to any amendment or modification of the FILOT Agreement which increases the percentage of the Credit or the term over which it is granted, without obtaining the written consent of the City.

4. The FILOT Agreement will terminate after any portion of the Project is placed in service, should the Company fail to make any of the fee in lieu of tax payments required thereunder.

5. The FILOT Agreement will terminate if it is determined that the Project cannot lawfully be included in a MCIP, or that it is unlawful for Credits to be provided in connection with the Project, whether as

a result of a final and unappealable decision of the South Carolina Court of Appeals or the South Carolina Supreme Court or as a result of a change in or modification of the Multi-County Park Act, Title 12, Chapter 44, of the Code, and all future acts successor or supplemental thereto or amendatory thereof, or any other provision of the Code or the Constitution of the State (any such court decision or change or modification being a “Change in Law”). In the event of a Change in Law, neither the County nor the City shall be obligated to the Company to provide any substitute form of financial incentive, tax incentive, or any other alternative relief whatsoever.

6. The FILOT Agreement shall contain a provision requiring the Company to reimburse all legal fees and expenses of the City associated with the review of matters contemplated herein. Likewise, the FILOT Agreement shall provide for reimbursement by the Company of the City’s legal fees and expenses in the event of any dispute regarding the terms of the FILOT Agreement or the incentives provided thereby. If the Company fails to pay such expenses within thirty (30) days of receipt of City’s written invoice therefore, then such failure shall constitute an event of default under the FILOT Agreement, subject to the cure rights provided therein.

7. Should any part, term, or provision of this Intergovernmental Agreement be finally declared to be invalid or otherwise enforceable by any court of competent jurisdiction, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder, all of which are hereby declared to be separable.

[signature page follows]

Agreed upon and entered into as of the _____ day of October, 2023.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Its: County Administrator

CITY OF FOUNTAIN INN SOUTH CAROLINA

By: _____
Its: City Administrator

EXHIBIT A
LAND

In the City of Fountain Inn, Greenville County, South Carolina, generally bounded by [] to the west, [] to the south, [] to the east, and [] to the north, generally depicted inside the heavy-marked, black line on the image below, and consisting of the following parcel(s) (Greenville County):

[]

EXHIBIT B
TAX DISTRIBUTION

Taxing Entity	Distribution Amount	Base Year Millage	Percentage of Total Millage
Greenville County School District	\$2,481.16	198.7	60.0302%
Greenville County	609.36	48.8	14.7432%
City of Fountain Inn	857.86	68.7	20.7553%
GVL Tech	62.43	5.0	1.5106%
Library	99.90	8.0	2.4169%
Art Museum	17.48	1.4	0.4230%
Auditorium	4.99	0.4	0.1208%
Total	\$4,133.19	311.0	100.00%

EXHIBIT E
FORM OF GREENVILLE PARK ORDINANCE

ORDINANCE NO. []

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

BE IT ORDAINED BY THE COUNTY COUNCIL OF GREENVILLE COUNTY, SOUTH CAROLINA:

SECTION 1: Greenville County is hereby authorized to jointly develop an industrial and business park with Anderson County (the ***“Park”***). The Park shall be located initially on lands located in Greenville County only as authorized by Sec. 4-1-170 of the South Carolina Code of Laws 1976, as amended.

SECTION 2: Greenville County will enter into a written agreement to develop the Park jointly with Anderson County in substantially the form attached hereto as ***Exhibit A*** and incorporated herein by reference (the ***“Park Agreement”***). The Chairman of Greenville County Council and the County Administrator are hereby authorized to execute the Park Agreement on behalf of Greenville County, with such changes thereto as the Chairman and/or County Administrator shall deem, upon advice of counsel, necessary and do not materially change the import of the matters contained in the form of agreement set forth in ***Exhibit A***.

SECTION 3: The businesses or industries located in the Park will pay a fee in lieu of ad valorem taxes as provided for by law or as set forth in the Park Agreement. With respect to properties located in the Greenville County portion of the Park, the fee paid in lieu of ad valorem taxes shall be paid to the Treasurer of Greenville County. That portion of such fee allocated pursuant to the Park Agreement to Anderson County shall be thereafter paid by the Treasurer of Greenville County to the Treasurer of Anderson County within ten (10) business days following the end of the calendar quarter of receipt for distribution in accordance with the terms of the agreement. With respect to properties located in the Anderson County portion of the Park, the fee paid in lieu of ad valorem taxes shall be paid to the Treasurer of Anderson County. That portion of such fee allocated pursuant to the Park Agreement to Greenville County shall thereafter be paid by the Treasurer of Anderson County to the Treasurer of Greenville County within ten (10) business days following the end of the calendar quarter of receipt for distribution in accordance with the terms of the Park Agreement.

SECTION 4: Except as otherwise provided in Section 9 below with respect to distributions to the City (as such term is defined below), revenues generated from industries or businesses located in the Greenville County portion of the Park and to be retained by Greenville County pursuant to the Park Agreement shall be distributed within Greenville County in the following manner:

First, unless Greenville County elects to pay or credit the same from only those revenues which Greenville County would otherwise be entitled to receive as provided under “Third” below, to pay annual debt service or other annual payments on any bonds or obligations issued by or on behalf of Greenville County pursuant to, or to be utilized as a credit in the manner provided in the second paragraph of, Section 4-1-175, Code of Laws of South Carolina 1976, as amended, or any successor statutes or provisions, or pursuant to any other authorization for the issuance of bonds or incurrence of obligations, payable in whole or in part by or from revenues generated from any properties in the Park;

Second, at the option of Greenville County, to reimburse Greenville County for any expenses incurred by it in the development, operation, maintenance and promotion of the Park or the businesses located therein or for the economic development of Greenville County; and

Third, to those taxing districts which overlap the applicable properties within Greenville County’s portion of the Park, in a pro-rata fashion based on comparative millage rates for the year in question of such taxing districts.

provided, that (i) all taxing districts which overlap the applicable properties within the Park shall receive some portion of the revenues generated from such properties; and (ii) 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 such taxing entity; and (iii) Greenville County may, by ordinance, from time to time, amend the distribution of the fee in lieu of tax payments to all taxing entities, subject to the terms and conditions of the IGA (defined below).

SECTION 5: Under no circumstances are the revenues generated from the Park included as “Revenues” or “Project Revenues” as such terms are defined in Ordinance No. 2899 enacted by the Greenville County Council on October 15, 1996, as subsequently amended or supplemented.

SECTION 6: Since the initial real estate designated to be in the Park is within the corporate limits of the City of Fountain Inn, South Carolina (the “**City**”), Greenville County and the City will be entering into an intergovernmental agreement (the “**IGA**”) with one another concerning the use of certain revenues generated from the Greenville County portion of the Park.

The terms and provisions of the IGA in such form as presented to this County Council and attached hereto as **Exhibit B** are hereby approved. The Chairman of County Council and the County Administrator are each hereby authorized and directed to execute and deliver the IGA in such final form as may be approved by the Chairman of the County Council and the County Administrator, with the advice of the County Attorney, such execution being conclusive evidence of such approval; and the Clerk to the County Council is hereby authorized and directed to attest the same, and thereupon to cause the IGA to be delivered to the City.

SECTION 7: This Ordinance shall supersede and amend in its entirety any other ordinances or resolutions of Greenville County Council pertaining to the Park.

SECTION 8: Should any section of this Ordinance be, for any reason, held void or invalid, it shall not affect the validity of any other section hereof which is not itself void or invalid.

SECTION 9: Notwithstanding the provisions of Section 4 above, or anything else contained herein to the contrary, with respect to the Land and all improvements and personal property

located thereon, the revenues generated from industries or businesses located in the Greenville County portion of the Park and to be retained by Greenville County pursuant to the Park Agreement shall be distributed in accordance with the provisions of the IGA.

SECTION 10: This Ordinance shall be effective after third and final reading thereof.

[Signature page follows]

Enacted in meeting duly assembled this _____ day of October, 2023.

GREENVILLE COUNTY, SOUTH CAROLINA

By: _____
Dan Tripp, Chairman of County Council,
Greenville County, South Carolina

By: _____
Joseph M. Kernell, County Administrator,
Greenville County, South Carolina

ATTEST:

By: _____
Regina McCaskill, Clerk to County Council
Greenville County, South Carolina

First Reading: September [], 2023
Second Reading: October [], 2023
Third Reading: October [], 2023
Public Hearing: October [], 2023

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned Clerk to County Council of Greenville County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received unanimous approval, by the County Council at its meetings of September [], 2023, October [], 2023, and October [], 2023, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

Dated: October [], 2023

Regina McCaskill, Clerk to County Council,
Greenville County, South Carolina

EXHIBIT A
AGREEMENT FOR DEVELOPMENT OF
JOINT COUNTY INDUSTRIAL/BUSINESS PARK
(Irish LLC)
[see attached]

EXHIBIT B
INTERGOVERNMENTAL AGREEMENT (IGA)
[see attached]

EXHIBIT C
LAND DESCRIPTION

In the City of Fountain Inn, Greenville County, South Carolina, generally bounded by [] to the west, [] to the south, [] to the east, and [] to the north, generally depicted inside the heavy-marked, black line on the image below, and consisting of the following parcel(s) (Greenville County):

[]

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned Clerk to County Council of Greenville County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of a resolution which was adopted by the County Council at its meeting of October [], 2023, at which meeting a quorum of members of the County Council were present and voted, and an original of which resolution is filed in the permanent records of the County Council.

Clerk to Greenville County Council

Dated: October [], 2023