
STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2023-1842

COUNTY OF LANCASTER

)

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND BETWEEN LANCASTER COUNTY AND [AN ENTITY PREVIOUSLY IDENTIFIED BY THE COUNTY AS PROJECT SPIDER], INCLUDING ANY RELATED OR AFFILIATED ENTITIES, PROVIDING FOR SPECIAL SOURCE REVENUE CREDITS; AND TO EXPRESS THE INTENTION OF COUNCIL TO PROVIDE MONIES TO THE ECONOMIC DEVELOPMENT FUND.

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

Section 1. Findings and Determinations; Purpose.

A. The Lancaster County Council finds and determines that:

1. Lancaster County, South Carolina (the "County"), acting by and through its County Council (the "County Council") is authorized and empowered to establish a multicounty park ("MCP") pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina, and also authorized to provide special source revenue credits ("SSRCs") pursuant to Sections 4-1-170, 4-1-172, 4-1-175 and 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "MCP Act") against fee-in-lieu of tax ("FILOT") payments ("FILOT Payments") made pursuant to the MCP Act to reimburse a project for the costs of designing, acquiring, constructing, improving, or expanding (i) infrastructure serving the project, or (ii) improved or unimproved real estate and personal property, including machinery and equipment used in the operation of a manufacturing or commercial enterprise, through which powers the commercial and industrial development of South Carolina and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in South Carolina and the County and thus to utilize and employ the workforce, products, and natural resources of South Carolina to benefit the general public welfare of the County by providing services, employment, and other public benefits not otherwise provided locally; and

2. [PROJECT SPIDER], on its own or together with one or more of their subsidiaries, affiliates, successors, assigns, sponsors, lessors, and others (collectively, the "Company"), desires to invest capital in the County with an expected investment of \$6,900,000 and an expected creation of at least one hundred and sixty seven (167) full-time jobs (the "Project").

B. It is the purpose of this ordinance to approve a Special Source Revenue Credit Agreement with the Company under the MCP Act that provides for SSRCs against the FILOT Payments to be made by the Company and commits the County to locate the Project in an MCP.

Section 2. Additional Findings.

County Council makes the following additional findings:

(a) The Project will constitute a “project” as the term is referred to and defined in the MCP Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the MCP Act.

(b) The Project and the payments in lieu of taxes anticipated to be paid in connection therewith are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

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

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

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

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

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

Section 3. Approval of Special Source Revenue Credit Agreement.

The form, terms, and provisions of the Special Source Revenue Credit Agreement (“SSRC Agreement”), attached hereto as Exhibit A, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the SSRC Agreement were set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the SSRC Agreement in the name of and on behalf of the County, and thereupon to cause the SSRC Agreement to be delivered to the Company. The SSRC Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer’s execution thereof to constitute conclusive evidence of such officer’s approval of any and all changes or revisions therein from the form of the SSRC Agreement attached to this ordinance.

Section 4. Economic Development Fund.

(a) Council finds that (i) by passage of Ordinance No. 2014-1260, Council created an Economic Development Fund with the intent to make monies available to the fund from new revenues to the County derived from new and expanded businesses and industry, and (ii) the ability to make monies available to the Economic Development Fund can be difficult because of complexities and legalities applicable to fee-in-lieu of tax arrangements and multi-county parks.

(b) It is the intent of Council, in the annual County budget, to appropriate monies to the Economic Development Fund based on the new FILOT Payments that the County receives with respect to the Project. Specifically, it is Council’s intent to appropriate from the General Fund of the County an amount based on the following formula: Seven percent (7%) times the amount of FILOT Payments (after application of the SSRCs provided under the SSRC Agreement”) received by the County after distribution to other taxing entities in the most recently completed tax year.

Section 5. Authority to Act.

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to

effect the execution and delivery of the SSRC Agreement and the performance of all obligations of the County under and pursuant to the SSRC Agreement.

Section 6. **Severability.**

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

Section 7. **Controlling Provisions.**

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

Section 8. **Effective Date.**

This ordinance is effective upon third reading.

[Execution page follows]

AND IT IS SO ORDAINED

Dated this ____ day of _____, 2023.

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

ATTEST:

Sherrie Simpson, Clerk to Council

First Reading:	March 27, 2023	
Second Reading:	April 11, 2023	[tentative]
Public Hearing:	May 22, 2023	[tentative]
Third Reading:	May 22, 2023	[tentative]

Approved as to form:

Ginny L. Merck-Dupont, County Attorney

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Exhibit A to Ordinance No. 2023–1842

Special Source Revenue Credit Agreement

See attached.

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