

---

STATE OF SOUTH CAROLINA            )  
  )  
COUNTY OF LANCASTER                )

**ORDINANCE 2024-1908**

**TO AUTHORIZE AND APPROVE THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO FEE AGREEMENT BY AND AMONG LANCASTER COUNTY, SOUTH CAROLINA, COOLEY, INCORPORATED AND FIP MASTER FUNDING VIII, LLC; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.**

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

**Section 1.       Findings and Determinations**

The Lancaster County Council finds that:

(a) Lancaster County, South Carolina (the “County”) acting by and through its County Council (the “Council”), is authorized and empowered under and pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended (the “Code”), and specifically Title 12, Chapter 44 of the Code (the “Fee in Lieu of Tax Simplification Act” or “FILOT Act”), to enter into agreements with business and industry, to offer certain privileges, benefits, and incentives as inducements for economic development within the County whereby the industry would pay fees in lieu of *ad valorem* taxes (“FILOT Payments”) with respect to qualified business and industrial projects, through all such powers the industrial development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain and expand in the State and thus utilize and employ the workforce, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally; and

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

(c) Section 12-44-70 of the FILOT Act, Section 4-1-175 of the MCP Act and Section 4-29-68 of the Code authorizes the Council to provide special source revenue credits (“SSRCs”) that are applied against FILOT Payments made pursuant to the FILOT Act and MCP Act to reimburse a project for the costs of designing, acquiring, constructing, improving, or expanding, among other things, (i) infrastructure serving the project, or (ii) improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County; and

(d) Cooley, Incorporated and FIP Master Funding VIII, LLC (collectively, the “Companies”), are party to that certain Fee Agreement, dated as of December 14, 2020, by and among the Companies and the County, as (i) subsequently assigned to FIP Master Funding VIII, LLC by that certain Assignment of Fee Agreement and Special Source Revenue Credit Agreement dated as of December 30, 2022, pursuant to which the Companies committed to making investment in real and personal property located in the County (the “Project”), and (ii) subsequently amended by that First Amendment to the Fee Agreement dated as of

February 12, 2024 (the foregoing Fee Agreement as assigned and amended is referred to herein as the “Fee Agreement”); and

(e) The Companies and the County desire to amend the Fee Agreement to account for additional investment for the purpose of expanding the Project and, in conjunction therewith, adjust the approved SSRCs, pursuant to the terms and conditions of a Second Amendment to Fee Agreement by and among the Companies and the County, attached to this ordinance as Exhibit A (the “Second Amendment”); and

(f) It is the purpose of this ordinance to effectuate the approval of the Second Amendment.

## **Section 2. Statutory Findings**

Council makes the following additional findings:

- (a) The Project will constitute a “project” as referred to and defined in the FILOT Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the FILOT Act.
- (b) The Project and the FILOT Payments are beneficial to the County, and the County has evaluated the Project based on all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.
- (c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Project, *i.e.*, economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the location 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 Second Amendment**

The form, terms, and provisions of the Second Amendment (the “Second Amendment”), attached hereto as Exhibit A, are approved, and all the terms, provisions, and conditions thereof are incorporated herein by reference as if the Second Amendment 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 Second Amendment in the name of and on behalf of the County, and thereupon to cause the Second Amendment to be delivered to the Company. The Second Amendment 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 official’s

approval of any and all changes or revisions therein from the form of the Second Amendment 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 application 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 revenue that the County received pursuant to the Fee Agreement. 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 money received pursuant to the Fee Agreement 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 County, County Administrator, County Attorney and all other appropriate officials of the County are (and each acting individually is) hereby authorized, empowered, and directed to take such actions and to execute such agreements, certificates, or other documents as may be necessary to effectuate the purposes of this ordinance, and the performance of all obligations of the County under and pursuant to the Second Amendment.

**Section 6. Severability**

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

**Section 7. Conflicting Provisions**

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

**Section 8. Effective Date**

This ordinance is effective upon third reading.

[Signatures follow on next page]

**AND IT IS SO ORDAINED**

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Billy Mosteller, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading: May 28, 2024

Second Reading: June 10, 2024

Third Reading: July 15, 2024

Public Hearing: July 15, 2024

Approved as to form:

\_\_\_\_\_  
Ginny L. Merck-Dupont, County Attorney

**Exhibit A to Ordinance 2024-1908**

**SECOND AMENDMENT**

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.