

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

RESOLUTION 1263-R2024

A RESOLUTION

TO STATE THE COMMITMENT OF LANCASTER COUNTY TO ENTER INTO A SPECIAL SOURCE REVENUE CREDIT AGREEMENT WITH AN ENTITY IDENTIFIED BY THE COUNTY AS PROJECT AURORA, INCLUDING ANY RELATED OR AFFILIATED ENTITIES; TO PROVIDE THE GENERAL TERMS OF THE SPECIAL SOURCE REVENUE CREDIT AGREEMENT; AND TO STATE THE COMMITMENT OF LANCASTER COUNTY TO PLACE PROPERTY OWNED OR LEASED BY PROJECT AURORA IN A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK.

WHEREAS, Lancaster County, South Carolina (the "County"), acting by and through its County Council (the "Council"), is authorized and empowered to establish a multicounty industrial or business park (an "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

WHEREAS, a company, whose identity is confidential at this time but will be referred to in this Resolution as Project Aurora, (the "Company"), is considering the acquisition, construction and installation of a project upon certain property within the County (the "Project"), *provided, that*, the County enters into certain incentive arrangements with the Company as set forth herein;

WHEREAS, the Project is expected to result in the aggregate investment in real and personal property of at least \$8,000,000 and to result in the creation of at least 10 new full-time jobs in the Project in the County;

WHEREAS, the Company has requested that the County (i) provide SSRCs with respect to the Project and (ii) include the location of the Project in an MCP established pursuant to the MCP Act;

WHEREAS, the Council intends by this Resolution to commit to the Company to (i) enter into a Special Source Revenue Credit Agreement ("SSRC Agreement") for the Project that provides SSRC incentives, and (ii) include the Project property in an MCP established pursuant to the MCP Act.

NOW, THEREFORE, BE IT RESOLVED by the Council of Lancaster County, South Carolina:

1. Council commits to provide SSRC incentives for the Project, the terms of which shall be set forth in a SSRC Agreement in form and manner satisfactory to the County and the Company containing substantially the following terms:

- a. an investment period (the "Investment Period") which shall commence on January 1, 2024 and end on December 31, 2029;
- b. for FILOT Payments due by the Company and/or any affiliates with respect to the Project, SSRCs provided in two tiers:
 - i. SSRC I shall be equal to the difference between the gross FILOT Payments that would be due under the SSRC Agreement and the FILOT Payments that would be due if calculated using a fixed millage rate of .34550 plus any millage which may hereafter be imposed for the specific purpose of providing fire, EMS or stormwater services, such SSRC I to be provided for a period of twenty (20) consecutive tax years and to be applied to any investment in the Project by the Company and any Project Affiliate during the Investment Period.
 - ii. SSRC II shall be equal to twenty-five percent (25%) of FILOT Payments (as reduced by SSRC I) due under the SSRC Agreement for a period of five (5) consecutive tax years.
- c. the Company's commitment to invest, or cause investment of, at least \$8,000,000 in the aggregate, by itself and/or any affiliates in the Project not later than the end of the initial Investment Period and to maintain such investment for so long as the Special Source Revenue Credits are scheduled to be provided by the County (the "Minimum Contractual Investment Requirement"), and the Company's commitment to create at least ten (10) new full-time jobs at the Project in the County by no later than the end of the initial Investment Period and to maintain such jobs for so long as the Special Source Revenue Credits are scheduled to be provided by the County (the "Minimum Contractual Jobs Requirement"); provided, in the event either (1) the Company fails to comply with the Minimum Contractual Investment Requirement or, (2) the Company fails to comply with the Minimum Contractual Jobs Requirement, the SSRCs applicable to each FILOT Payment shall be terminated on a retroactive and prospective basis, and the Company, and any affiliate who previously received the benefit of any SSRCs, shall pay to the County the difference between the FILOT Payments theretofore actually paid after taking into account any SSRCs that did apply to such FILOT Payments, and the FILOT Payments which would have been paid in the absence of any SSRCs, together with interest on such difference calculated in the manner as provided in Section 12-54-25 of the Code, or any successor Code provision;
- d. Provisions requiring the Company and any affiliate to provide documentation to the County Economic Development Director to prove compliance by the Company and any sponsor affiliate with the Minimum Contractual Jobs Requirement. The documentation may include providing completed South Carolina Department of Revenue job tax credit forms, such as form TC-4, and completed South Carolina Department of Employment and Workforce quarterly contribution and wage reports, such as form CUE 120. In lieu of providing any of the forms specifically identified in this item 1.d., the Company and

the County Economic Development Director may agree on an alternative method for the Company and any sponsor affiliate to demonstrate compliance with the Minimum Contractual Jobs Requirement.

- e. the commitment of the Company to reimburse the County for its administrative expenses associated with the review, negotiation and preparation of all documentation and authorizing proceedings, including attorney's fees, related to the SSRC Agreement, the location of the Project and the land on which the Project is now, or hereafter to be located, within the boundaries of a MCP, and for the County's administrative expenses associated with the annual computation and provisions of the SSRCs.

2. Council shall use its best efforts to include the land on which the Project is now, or hereafter to be, located in an MCP, if not already included in an MCP. The period of time for inclusion of the land in an MCP shall be for a period at least as long as the period the SSRC Agreement is effective.

3. Council's commitments and agreements contained in Section 2 above are subject to the exercise of discretion by granting or approving entities other than the County and the exercise of that discretion is not controlled by the County.

4. Council shall approve the SSRC Agreement, and any other agreement or document contemplated by this Resolution, in accordance with South Carolina law and the rules and procedures of the Council.

5. Council finds that (i) 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, (ii) the Project gives rise to no pecuniary liability of the County or incorporated municipality and to no charge against the general credit or taxing power of either the County or any incorporated municipality, (iii) the purposes to be accomplished by the Project are proper governmental and public purposes, and (iv) the benefits of the Project to the public are greater than the costs to the public.

6. To the extent this Resolution contains provisions that conflict with other orders, resolutions, and parts thereof, the provisions contained in this Resolution supersede all other orders, resolutions and parts thereof and this Resolution is controlling.

7. This Resolution takes effect upon its adoption.

[Signatures follow on next page]

AND IT IS SO RESOLVED

Dated this ____ day of _____, 2024.

[SEAL]

LANCASTER COUNTY, SOUTH CAROLINA

Steve Harper, Chair, County Council

Billy Mosteller, Secretary, County Council

Attest:

Sherrie Simpson, Clerk to Council

Approved as to form:

Ginny L. Merck-Dupont, County Attorney

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