

### **THIRD AMENDMENT TO INTERGOVERNMENTAL AGREEMENT**

This Third Amendment (the “Third Amendment to IGA”) to the Intergovernmental Agreement By and Between City of Rock Hill and York County Relating to the Textile Corridor Redevelopment Plan, the Amended Downtown Redevelopment Plan, the Red River Redevelopment Plan, the Manchester Village Redevelopment Plan and Other Matters is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between York County, South Carolina (the “County”) and the City of Rock Hill, South Carolina (the “City”) and further amends the original Intergovernmental Agreement between the City and the County executed by the County on December 5, 2005 and by the City on December 20, 2006 (the “Original County IGA”), as previously amended by a First Amendment thereto dated as of May 28, 2013 (the “First Amendment to County IGA”), and a Second Amendment thereto dated as of June 30, 2015 (the “Second Amendment to County IGA”)(such Original County IGA, First Amendment to County IGA and Second Amendment to County IGA collectively referred to herein is the “Prior County Intergovernmental Agreement”).

(a) Items (a) through (n) of the findings set forth in the Second Amendment to County IGA are hereby incorporated by reference. Capitalized terms not otherwise defined in this Third Amendment to County IGA shall have the meanings ascribed thereto in the Prior County Intergovernmental Agreement.

(b) Pursuant to the Act, the City adopted a “2014 Amendment to the Downtown Redevelopment Plan (Textile Corridor Redevelopment Project Area)” dated May 2014 and revised August 20, 2014 (the “2014 Amendment”) by Ordinance No. 2014-52 enacted on October 31, 2014. The 2014 Amendment: (a) added certain parcels of real property (the “New Textile Corridor Redevelopment Project Area”) to the Original Textile Corridor Redevelopment Project Area (as expanded, the “Expanded Textile Corridor Redevelopment Project Area”); (b) extended the duration of the Amended Downtown/Textile Corridor Redevelopment Plan with respect to the Expanded Textile Corridor Redevelopment Project Area (but not the Expanded Downtown Redevelopment Project Area) to December 31, 2039; and (c) provided for the issuance of TIF Bonds in one or more series in the aggregate principal amount of up to \$56,000,000 for redevelopment projects in the Expanded Textile Corridor Project Area, provided (i) such TIF Bonds shall have a term not to extend beyond December 31, 2039, and (ii) such aggregate principal amount limitation shall (A) exclude any TIF Bonds issued in connection with the Expanded Downtown Redevelopment Project Area, and (B) exclude principal amounts of TIF Bonds issued from time to time to the extent such amounts are used to refund outstanding principal amounts on TIF Bonds previously issued in connection with the Expanded Textile Corridor Redevelopment Project Area.

(c) Pursuant to a second amendment to the School District Intergovernmental Agreement entered into by and between the City and the School District in October of 2014 (approved by a Resolution of the School District adopted by the Board of Trustees of the School District on October 27, 2014, and approved by Ordinance No. 2014-52 enacted by the Council of the City on October 31, 2014), the School District consented to the 2014 Amendment, subject to the conditions set forth therein.

(d) Pursuant to the Second Amendment to County IGA (approved by Ordinance No. 2015 enacted by the County Council of the County on June 15, 2015, and by Ordinance No. 2015-33 enacted by the Council of the City on June 22, 2015), the County consented to the 2014 Amendment, subject to the conditions set forth therein.

(e) Pursuant to General Bond Ordinance No. 2013-21 and Ordinance No. 2017-56 enacted by the Council on September 25, 2017, the City issued its \$1,650,000 Tax Increment Bond (Junior Lien – Downtown Redevelopment Project Area), Series 2017 on October 26, 2017 (the “Series 2017 Bond”) to

finance a portion of the Expanded Downtown Redevelopment Area Projects.

(f) Pursuant to General Bond Ordinance No. 2013-21 and Ordinance No. 2018-57 enacted by the Council on September 24, 2018, the City issued its \$1,700,000 Tax Increment Refunding Bond (Junior Lien – Downtown Redevelopment Project Area), Series 2018 (the “Series 2018 Bond”) to currently refund the Series 2017 Bond.

(g) Section 31-6-80(F)(2) of the Act provides that subsequent to the adoption of an ordinance approving a redevelopment plan, a municipality may by ordinance make changes to the redevelopment plan that adds parcels to or expands the exterior boundaries of the redevelopment project area, to general land uses established pursuant to the redevelopment plan, to the proposed use of the proceeds of the obligations in relationship to the redevelopment plan, or to extend the maximum amount or term of obligations to be issued under the redevelopment plan, in accordance with the procedures provided in the Act for the initial approval of a redevelopment project and designation of a redevelopment project area.

(h) The City has prepared a 2020 Amendment to the Downtown Redevelopment Plan (Downtown and Textile Corridor Redevelopment Project Areas) dated January 2020 (the “2020 Amendment”) in order to: (A) treat the Expanded Downtown Redevelopment Project Area and the Expanded Textile Corridor Redevelopment Project Area as a consolidated redevelopment project area (collectively, the “Consolidated Redevelopment Project Area”) for all purposes, including the undertaking and financing of redevelopment projects, and issuance of financial obligations secured by the incremental increase in real property taxes generated in the combined Consolidated Redevelopment Project Area; and (B) authorize the issuance of up to \$85,000,000 principal amount of future TIF Bonds (exclusive of any TIF Bonds or other obligations previously issued in connection with the Consolidated Redevelopment Project Area, and exclusive of any future TIF Bonds or other obligations issued to refund such obligations).

(i) Section 31-6-85 of the TIF Act provides that a taxing district may provide by intergovernmental agreement that such taxing district will participate in a redevelopment project on a partial or modified basis, and that such intergovernmental agreement shall be effective, valid and enforceable for the entire duration thereof upon its approval by municipal ordinance, and by ordinance or resolution, whichever is applicable, enacted or approved by the taxing district.

(j) By letter dated November 26, 2019, the City provided to the County a copy of the 2020 Amendment and notice of its intent to adopt the 2020 Amendment.

(k) The City and the County have discussed matters relating to the 2020 Amendment and the Prior County Intergovernmental Agreement, and have reached certain agreements relating thereto, as set forth in this Third Amendment to IGA.

(l) In accordance with the foregoing, the County and the City, respectively, have authorized the execution and delivery of this Third Amendment to IGA by ordinance enacted by the County Council of the County on \_\_\_\_\_, 2020 and by ordinance enacted by the Council of the City on \_\_\_\_\_, 2020.

NOW, THEREFORE, in consideration of the mutual agreements between the City and the County as set forth herein and other good and valuable consideration, the parties agree as follows:

Section 1. Consolidation of Redevelopment Plans and Project Areas. The County consents to the consolidation of and amendments to the Original Downtown Redevelopment Plan, the Amended Downtown/Textile Corridor Redevelopment Plan, the Second Amended Downtown Redevelopment Plan and the 2014 Amendment (collectively, the “Prior Plans”) pursuant to and as set forth in the 2020

Amendment. Further, the County consents to the consolidation of the Expanded Downtown Redevelopment Project Area and the Expanded Textile Corridor Redevelopment Project Area, resulting in the Consolidated Redevelopment Project Area, for all purposes, and consents to the issuance by the City of up to \$85,000,000 principal amount of future TIF Bonds, in one or more series (exclusive of any TIF Bonds or other obligations previously issued in connection with the Consolidated Redevelopment Project Area prior to the consolidation established herein, and exclusive of any future TIF Bonds or other obligations issued to refund such obligations), all as more particularly described in the 2020 Amendment. The \$85,000,000 limit is intended to include (1) approximately \$8,600,000 in TIF bonded indebtedness capacity currently existing and not in addition to that currently available in connection with the Expanded Downtown Redevelopment Project Area; (2) approximately \$4,100,000 in TIF bonded indebtedness capacity currently existing and not in addition to that currently available in connection with the Expanded Textile Corridor Redevelopment Project Area, and (3) approximately \$72,300,000 in TIF bonded indebtedness to be used for new debt issue for one or more of the following publicly-owned redevelopment projects, as well as publicly-owned infrastructure, improvements, facilities and equipment related thereto (collectively, the “New Projects”):

1. Structured or other parking located at or near the intersection of White Street and Wilson Street with an estimated cost of approximately \$24.5 million;
2. Structured or other parking located in the University Center development with an estimated cost of approximately \$16.3 million;
3. Structured or other parking located at or near the intersection of White Street and Dave Lyle Boulevard with an estimated cost of approximately \$2 million;
4. Structured or other parking located at or near the intersection of Main Street and Dave Lyle Boulevard with an estimated cost of approximately \$13 million;
5. Structured or other parking at or near the intersection of White Street and Dave Lyle Boulevard with an estimated cost of approximately \$7 million;
6. Pedestrian bridge over Dave Lyle Boulevard with an estimated cost of approximately \$6 million;
7. Pedestrian and parking infrastructure and improvements at or near the intersection of Main Street and Elizabeth Lane with an estimated cost of approximately \$2 million;
8. Publicly owned improvements at or near the intersection of Wilson Street and Black Street and the intersection of Main Street and Dave Lyle Boulevard with an estimated cost of approximately \$1 million;
9. Pedestrian infrastructure and improvements at or near the intersection of Southern Street and Dave Lyle Boulevard with an estimated cost of approximately \$500,000; and

10. In the event the City determines not to finance one or more of the projects identified in items 1 through 9 above with the proceeds of TIF Bonds, or if the actual costs of one or more of the projects identified in items 1 through 9 above to be defrayed with proceeds of TIF Bonds are less than the estimated costs thereof, allocation of TIF proceeds may be redistributed to the remaining Projects 1-9 as may be determined by the City; however, increases by redistribution to Projects 1-9 which are greater than 10% of the estimated costs set out, supra, shall be presented to County Council for approval by Resolution, which approval shall not be unreasonably withheld, and re-allocations of any funds from Projects 1-9 to such other

existing publicly-owned redevelopment projects in the Consolidated Redevelopment Project Area shall be presented to County Council for consent, by Resolution, and unless approved TIF Revenues (as defined below) may not be used to pay the allocable portion of annual debt service on TIF Bonds issued to defray the costs of such other projects. Expenditures toward the New Projects shall be detailed subject to the annual reporting requirements provided for in the Second Amendment to County IGA.

For such time as any of the City's previously-issued TIF Bonds in connection with the Expanded Textile Corridor Redevelopment Project Area or the Expanded Downtown Redevelopment Project Area remain outstanding (i.e., prior to the consolidation of the Downtown Redevelopment Project Area and Expanded Textile Corridor Redevelopment Project Area as necessary for purposes of differentiating the TIF Revenues which are pledged to secure the TIF Bonds issued in connection with each respective TIF District), the County consents to (i) the utilization of proceeds of TIF Bonds secured by TIF Revenues generated in the Expanded Downtown Redevelopment Project Area to pay for redevelopment projects in connection with the Consolidated Redevelopment Project Area, and (ii) the utilization of proceeds of TIF Bonds secured by TIF Revenues generated in the Expanded Textile Corridor Redevelopment Project Area to pay for redevelopment projects in connection with the Consolidated Redevelopment Project Area.

Section 2. Duration of the Redevelopment Plan. As previously agreed, the County reaffirms its consent to the duration of the Prior Plans, as amended by the 2020 Amendment, to December 31, 2039.

Section 3. Initial Equalized Assessed Values. Nothing in the 2020 Amendment or this Third Amendment to IGA changes the initial equalized assessed values of property in the Expanded Downtown Redevelopment Project Area or the Expanded Textile Corridor Redevelopment Project Area as previously established and agreed to in the Prior Plans. However, for clarification, Section 3(b)(i)(A) of the Second Amendment to County IGA is hereby amended to provide as follows: "(A) Initial equalized assessed value of \$1,902,900<sup>1</sup> until December 31, 2029."

Section 4. Development Agreements. The City agrees to provide to the County a copy of all executed development agreements pursuant to S.C. Code Ann. §§ 6-31-10 *et seq.* in effect as of the date hereof between the City and any developer of property located within the Consolidated Redevelopment Project Area.

Section 5. Property Transfers. By July 31 of each year, the City shall provide to the County documentation relating to all transfers of private property to public property during the prior twelve months for any property located in the Consolidated Redevelopment Project Area. By January 31, 2020, or as soon as practicable thereafter, but not later than 30 days after the execution of this Third Amendment, the City shall provide the County documentation relating to all transfers of private property to public property from the beginning of the TIFs until December 31, 2019.

Section 6. County External Auditor Access. The City will provide the County's outside auditor with access to all City financial information relating to the City's financial activities in connection with the Consolidated Redevelopment Project Area to allow the County auditor's to perform agreed upon procedures related to the TIF districts from inception to June, 30, 2019. The City shall reimburse the County up to \$25,000 for the agreed upon procedures and the County shall share any resulting report with the City. .

Section 7. Major Fund. The City will create a separate Major Fund for the special tax allocation fund established for the Consolidated Redevelopment Project Area (the "TIF Fund"). The TIF Fund will be reported as a Major Fund in the City's audited financial statement until the expiration of the TIF redevelopment plan.

Section 8. Interfund Transfers. Any transfers made into the TIF Fund will be permanent and nonrefundable. No liabilities will be created.

Section 9. Balloon Payments. The City will not issue any TIF Bonds which qualify as Balloon Indebtedness, as defined in the following sentence. Balloon Indebtedness shall mean any series of TIF Bonds, twenty-five percent (25%) or more of the original principal of which is to be paid during one fiscal year; provided such term excludes: (a) a series of TIF Bonds maturing within one year of its date of issue, or (b) a series of TIF Bonds which is payable over its term in approximately level amounts (i.e., not varying by more than 10% from highest to lowest) of principal and interest in each fiscal year.

Section 10. Debt Obligations. The City agrees to provide to the County for its review a copy of the applicable bond ordinance for any proposed TIF Bond issuance no later than thirty (30) days prior to the date of enactment of such bond ordinance.

Section 11. No Refunding of TIF Bonds. No TIF Bonds issued by the City related to the Consolidated Redevelopment Project Area may contain terms or provisions allowing for optional redemption prior to maturity.

Section 12. Fund balance. In the new combined TIF Fund, the City must attain a fund balance of at least 101% of the upcoming annual debt service due before December 31 of that calendar year on TIF Bonds issued and outstanding in connection with the Consolidated Redevelopment Project Area as of June 30<sup>th</sup> of that Calendar year.

Section 13. Effect of Third Amendment to IGA. The Prior County Intergovernmental Agreement is hereby amended only to the extent set forth in this Third Amendment to IGA. All remaining representations, warranties and agreements set forth in the Prior County Intergovernmental Agreement, to the extent not amended by this Third Amendment to IGA, remain in full force and effect. If there is a conflict between this Third Amendment to IGA and any other oral or written agreements, policies, plans, or ordinances relating thereto, the terms of this Third Amendment to IGA will control.

Section 14. Actions Regarding TIF Bonds and TIF Revenues. Nothing shall limit the County's right at any time to institute or cause to be instituted any action, suit, or proceeding challenging the City's right, power or authority to issue TIF Bonds, subject to the statute of limitations set forth at Section 11-15-40(2) of the Code of Laws of South Carolina 1976, as amended, or utilize such incremental real property tax revenues attributable to the County, City, and School District TIF Revenues ("TIF Revenues") on a pay-as-you-go basis to pay for redevelopment projects in the Consolidated Redevelopment Project Area,

Section 15. County Right to Withhold County TIF Revenue Distributions; Resolution of Disputes. Notwithstanding any provisions to the contrary herein or within the Prior County Intergovernmental Agreement regarding the distributions of County TIF Revenues, the County and City expressly agree that the failure of the City to cure any non-compliance with the requirements as specified in Sections 4 through 12 may result in the County withholding County TIF Revenues from the City during the period of non-compliance, until such time as the City either (a) meets the requirement(s) or (b) otherwise fully resolves the non-compliance of the item.

Should the County determine that the City is noncompliant as set forth in the paragraph immediately above, it shall provide Notice (as defined below) of its finding of such noncompliance and intent to withhold TIF Revenues to the City Manager of the City and any dispute arising under this Section 15 shall be resolved within 30 days of such Notice by a panel of three (3) persons made up of one (1) representative appointed by the County, one (1) representative appointed by the City, and one (1) representative selected by the two (2) appointed representatives (the "Nonparty Representative"). The panel

shall provide its decision in writing and make specific findings to support its decision. Should the dispute result such that TIF Revenues shall be withheld, the City shall have 30 days to correct its actions and demonstrate compliance in writing with Sections 4 through 12 hereof and may appeal to the panel within such period by providing Notice to the Nonparty Representative, and the panel shall provide its decision regarding such appeal in writing and make specific findings to support its decision within 15 days of Notice of such appeal, and the decision of the panel on appeal shall finally resolve such dispute. Each party agrees to be solely responsible for the expenses and costs of its representative and to equally bear the expenses and costs of the nonparty representative.

No TIF Revenues shall be withheld during the pendency of the consideration of the dispute or any appeal as described in the paragraph immediately above.

All notices will be in writing and will be deemed to have been duly given: (a) if by transmission by hand delivery, when delivered; (b) if mailed via the official governmental mail system, five business days after mailing, provided said notice is sent first class, postage pre-paid, via certified or registered mail, with a return receipt requested; (c) if mailed by an internationally recognized overnight express mail service such as Federal Express, UPS, DHL Worldwide or a similar organization, one Business Day after deposit therewith prepaid; or (d) by e-mail upon delivery with receipt confirmed ((a) through (d), each, a "Notice").

Section 16. Counterparts. This Third Amendment to IGA may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Execution Page Follows]

IN WITNESS WHEREOF, the City, after due authorization, has executed this Third Amendment to IGA on the date indicated below.

CITY OF ROCK HILL, SOUTH CAROLINA

By: \_\_\_\_\_

Its: City Manager

ATTEST:

By: \_\_\_\_\_

Its: Municipal Clerk

Date: \_\_\_\_\_, 2020

DRAFT (UPDATED 2-28-2020)

IN WITNESS WHEREOF, the County, after due authorization, has executed this Third Amendment to IGA on the date indicated below.

YORK COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_

Its: County Council Chairman

ATTEST:

By: \_\_\_\_\_

Its: County Manager

Date: \_\_\_\_\_, 2020

DRAFT (UPDATED 2-28-2020)