

**AGREEMENT FOR DEVELOPMENT OF
JOINT COUNTY INDUSTRIAL/BUSINESS PARK
(PROJECT AVALANCHE)**

BETWEEN

YORK COUNTY, SOUTH CAROLINA

AND

CHESTER COUNTY, SOUTH CAROLINA

**INSTRUCTIONS
FOR
COUNTY AUDITOR AND COUNTY TREASURER**

ALL PROPERTY LOCATED IN THIS JOINT COUNTY INDUSTRIAL/BUSINESS PARK IS EXEMPT FROM *AD VALOREM* TAXES AND IS SUBJECT INSTEAD, UNDER THE TERMS OF THE STATE CONSTITUTION, TO A FEE-IN-LIEU OF *AD VALOREM* TAXES EQUAL TO WHAT THE TAXES WOULD HAVE BEEN. HOWEVER, THE FEE-IN-LIEU PAYMENTS MAY BE BELOW NORMAL *AD VALOREM* TAX RATES IF THE PROPERTY IS SUBJECT TO A NEGOTIATED FEE-IN-LIEU OF TAXES ARRANGEMENT. WHEN PREPARING THE FEE BILLS FOR ALL PROPERTY LOCATED IN THIS PARK, PLEASE REFERENCE THE PILOT RECORDS TO ENSURE THE CORRECT MILLAGE RATE AND ASSESSMENT RATIO ARE USED.

ONCE A FEE BILL HAS BEEN PAID, THE PROVISIONS OF THIS PARK AGREEMENT GOVERNS HOW THE FEE RECEIVED IS TO BE DISTRIBUTED BETWEEN THE COUNTIES. THIS PARK AGREEMENT GOVERNS HOW THE FEE RECEIVED IS TO BE DISTRIBUTED AMONTH THE VARIOUS TAXING ENTITIES IN CHESTER COUNTY. THIS PARK AGREEMENT AND THE INTERLOCAL AGREEMENT GOVERN HOW THE FEE RECEIVED IS TO BE DISTRIBUTED IN YORK COUNTY.

THIS AGREEMENT FOR DEVELOPMENT OF JOINT COUNTY INDUSTRIAL/BUSINESS PARK (this "*Park Agreement*") to be located within York County, South Carolina ("*York County*") and Chester County, South Carolina ("*Chester County*") is made and entered into as of this ____ day of _____, 2020, by and between York County and Chester County.

WITNESSETH:

WHEREAS, York County and Chester County are contiguous counties, which pursuant to Ordinance No. ____ enacted by York County Council on _____, 2020, and Ordinance No. ____ enacted by Chester County Council on _____, 2020 (collectively, the "*Enabling Ordinances*"), have each determined that, in order to promote economic development and thus provide additional employment opportunities within both of said counties and within the City of Rock Hill, South Carolina (the "*City*"), there should be established, within York County and in whole or in part within the City, a Joint County Industrial/Business Park (the "*Park*"), to be located upon property described in Exhibit A hereto; and

WHEREAS, as a consequence of the establishment of the Park, property comprising the Park and all property having a situs therein shall be exempt from ad valorem taxation pursuant to Article VIII, Section 13 of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equal to that amount for which such owner or lessee would be liable except for such exemption; and

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Park Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Binding Agreement. This Park Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on York County and Chester County, and their successors and assigns.

2. Authorization. Article VIII, Section 13(D) of the Constitution of South Carolina provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the partner counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. Section 4-1-170, Code of Laws of South Carolina, 1976, as amended (the "*Code*") satisfied the conditions imposed by Article VIII, Section 13(D) of the Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created. The City, by its Ordinance No. ____ enacted _____, 2020 (the "*City Ordinance*"), has consented to the creation of the Park in accordance with the requirements of Section 4-1-170 of the Code; provided, however, that such consent is conditioned upon the City and York County entering into an Interlocal Agreement, in the form attached to the City Ordinance, with such changes as shall be approved by the Mayor or City Manager, which approval shall not be unreasonably withheld, conditioned or delayed, regarding distribution of Park revenues and certain other matters related to the Park. In satisfaction of the aforementioned condition to the City's consent to inclusion of property located in the City within the Park, the City and York County have executed and entered into that certain Interlocal Agreement dated as of _____, 2020 (the "*Interlocal Agreement*").

3. Location of the Park.

(A) As of the date of this Park Agreement, the Park consists of property(ies) located initially wholly within York County and located in whole or in part within the City as further identified in Exhibit A hereto. It is specifically recognized that the Park may, from time to time, consist of non-contiguous properties within York County. Subject to the limitations and requirements set forth in the Interlocal Agreement, the boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances or resolutions of the County Councils of both York County and Chester County and an ordinance or resolution of the City consenting to the enlargement or diminution.

(B) Prior to the adoption by York County Council and by Chester County Council of ordinances authorizing the diminution of the boundaries of the Park, separate public hearings shall first be held by York County Council and by Chester County Council. Notice of such public hearings shall be published in newspapers of general circulation in York County and Chester County, respectively, at least once and not less than fifteen (15) days prior to such hearing.

(C) In the event of any enlargement or diminution of the boundaries of the Park, this Park Agreement shall be deemed amended and there shall be attached to the approving ordinances an Exhibit A which shall contain a legal description of the new property to be added and/or diminished.

(D) Notwithstanding anything contained in this Park Agreement to the contrary, neither county shall diminish the Park's boundaries without consent from the owner or lessee of a parcel of property until the end of the fifty-fifth (55th) calendar year following the end of the calendar year in which that owner's or lessee's parcel of property was included in the Park.

(E) The owner, or, if applicable, lessee of any property located within the Park, may remove personal property from the Park at any time, unless specifically prohibited otherwise.

4. Fee in Lieu of Taxes. Pursuant to Article VIII, Section 13(D), South Carolina Constitution, property located in the Park shall be exempt from ad valorem taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Park Agreement an amount (referred to as fees in lieu of ad valorem property taxes) equivalent to the ad valorem property taxes that would have been due and payable but for the location of such property within the Park, provided that this paragraph shall not prohibit York County or Chester County from entering into a negotiated fee in lieu of tax incentive agreement applicable to any property located within the Park. Payments of fees in lieu of taxes will be made on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate as late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The counties, acting by and through the Treasurers of York County and Chester County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of ad valorem taxes.

5. Allocation of Expenses. York County and Chester County shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park and the cost of providing public services, in the following proportions:

If property is in York County portion of the Park:

(1)	York County	100%
(2)	Chester County	0%

If property is in Chester County portion of the Park:

A.	York County	0%
B.	Chester County	100%

6. Allocation of Revenues. York County and Chester County shall receive an allocation of all revenue generated by the Park through payment of fees in lieu of ad valorem property taxes or from any other source (net of any special source revenue credits provided by either County) in the following proportions:

If property is in York County portion of the Park:

A.	York County	99%
B.	Chester County	1%

If property is in Chester County portion of the Park:

A.	York County	1%
B.	Chester County	99%

7. Revenue Allocation Within Each County. Revenues generated by the Park through the payment of fees in lieu of ad valorem property taxes shall be distributed to York County and to Chester County, as the case may be, according to the proportions established by Paragraph 6 herein. With respect to revenues allocable to Chester County by way of fees in lieu of taxes generated within Chester County, such revenue shall be distributed within Chester County in the manner provided by ordinance of the Chester County Council; provided, that (i) all taxing districts which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such portion, and (ii) with respect to amounts receivable in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity. With respect to revenues allocable to York County by way of fees in lieu of taxes generated within York County, such revenues shall be distributed within York County in the manner provided by the Interlocal Agreement, as such Interlocal Agreement may be amended from time to time; provided, however that (i) all taxing districts which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such portion, and (ii) with respect to amounts receivable in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity unless otherwise provided by the Interlocal Agreement.

8. Fees In Lieu of Taxes Pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina. It is hereby agreed that the entry by York County into any one or more fee in lieu of tax agreements pursuant to Title 4 or Title 12 of the Code with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of York County, except as otherwise provided in the Interlocal Agreement.

9. Jobs Tax Credit Enhancement. The owners or lessees of any property situated in the Park are entitled to whatever enhancement of the regular jobs tax credits authorized by Section 12-6-3360 of the Code, or any successive provisions, as may be provided under South Carolina law.

10. Applicable Law. To avoid any conflict of laws between the counties, the county law of the county in which a parcel of property is located is the reference for regulation of that parcel of property in the Park. Nothing in this Park Agreement purports to supersede state or federal law or regulation.

11. Regulation and Jurisdiction. Any ordinances of York County and Chester County concerning zoning, health and safety regulations, and building code requirements will apply for the respective portions of the Park in York County and Chester County. The Sheriff's Departments of York County and Chester County will have jurisdiction to make arrests and exercise all authority and power within the boundaries of the respective portions of the Park in York County and Chester County. Emergency services and all other municipal services will be provided in the Park by whatever providers provide such services in the respective York County and Chester County portions of the Park.

12. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to York County and Chester County and to each of the taxing entities within the participating counties shall be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Paragraphs 6 and 7 herein.

13. Severability. In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Park Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Park Agreement.

14. Counterpart Execution. The counties may execute this Park Agreement in multiple counterparts.

15. Termination. Notwithstanding any provision of this Park Agreement to the contrary, York County and Chester County agree that this Park Agreement may not be terminated by either party prior to December 31, [2090].

[Remainder of Page Intentionally Left Blank]

WITNESS our hands and seals as of the date first above written.

YORK COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Michael Johnson
Chairman, York County Council
York County, South Carolina

ATTEST:

Clerk to County Council
York County, South Carolina

CHESTER COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Shane Stuart
County Council Chairman/County Supervisor
Chester County, South Carolina

ATTEST:

Clerk to County Council
Chester County, South Carolina

EXHIBIT A

The Park is comprised of the property having the following York County Tax Map Numbers as of the date hereof (the “Park Property”), each property being located in the City of Rock Hill or located in the unincorporated area of York County, as indicated:

Tax Map No.	Located in City of Rock Hill or in Unincorporated York County	Notes

In addition, the Park Property shall include all property vertically or horizontally located on or within the York County Tax Map Numbers identified above, including, but not limited to, condominiums or other properties subject to any horizontal property regime, notwithstanding that such property bears different York County Tax Map Numbers from those identified above.

Notwithstanding the foregoing, the Park Property shall exclude any portion of the real property located on or within the York County Tax Map Numbers identified above which is taxed as owner occupied residential real property pursuant to Section 12-43-220(c) Code of Laws of South Carolina 1976, as amended, or successor statute, but only during the tax years in which such property meets the qualifications of Section 12-43-220(c) or successor statute. For the avoidance of doubt, this exclusion does not apply to residential real property that is not owner occupied.