

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BY AND BETWEEN YORK COUNTY, SOUTH CAROLINA AND GT REAL ESTATE HOLDINGS, LLC, ITS AFFILIATES, RELATED ENTITIES, SUCCESSORS AND ASSIGNS (THE “COMPANY”), AS WELL AS THE ADDITION OF SPONSOR AFFILIATES MEETING THE REQUIREMENTS OF TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, TO THE FEE IN LIEU OF TAX AGREEMENT ALL WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL BE SUBJECT TO CERTAIN PAYMENTS IN LIEU OF *AD VALOREM* TAXES INCLUDING THE PROVISION OF CERTAIN SPECIAL SOURCE AND/OR INFRASTRUCTURE IMPROVEMENT CREDITS AND/OR BONDS; PROVIDING FOR THE INCLUSION OF THE COMPANY’S AND SPONSOR AFFILIATES’ DESIGNATED PROPERTY IN A MULTI-COUNTY INDUSTRIAL AND BUSINESS PARK AND THE ALLOCATION OF FEES IN LIEU OF *AD VALOREM* TAXES PAYABLE UNDER A MULTI-COUNTY INDUSTRIAL AND BUSINESS PARK ALL AS AN INCENTIVE TO THE COMPANY TO LOCATE ITS PROJECT WITHIN YORK COUNTY, SOUTH CAROLINA; AND OTHER ECONOMIC DEVELOPMENT INCENTIVES AND OTHER MATTERS RELATED THERETO.

WHEREAS, YORK COUNTY, SOUTH CAROLINA (the “*County*”), acting by and through its County Council (the “*County Council*”), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the “*FILOT Act*”), Title 4, Chapter 1 (the “*MCIP Act*” or, as to Section 4-1-175 thereof, and, by incorporation Section 4-29-68 of the Code, the “*Special Source Act*”), and Title 4, Chapter 29, of the Code of Laws of South Carolina 1976, as amended, (the “*Code*”) and by Article VIII, Section 13(D) of the South Carolina Constitution (“*State Constitution*”), (i) to enter into agreements with industry whereby the industry would pay fees-in-lieu-of taxes with respect to qualified industrial projects and to provide Special Source Act credits, infrastructure improvement credits, and/or bonds to fund or reimburse certain infrastructure enhancing the economic development of the County 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 in the State and thus utilize and employ the manpower, 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 provided locally (ii) to covenant with such industry to accept certain payments in lieu of ad valorem taxes (a “*FILOT*”) and incentives with respect to such investment (a “*Fee Agreement*”); and (iii) to create, in conjunction with one or more other counties, a multi-county industrial or business park (a “*Multi-County Park*”) under the MCIP Act and to place property in a Multi-County Park in order to afford certain enhanced income tax credits to certain qualifying industry and to facilitate the use of payments in lieu of taxes received by the County with respect to real and personal property located within such Multi-County Park to assist in defraying the cost of certain qualifying infrastructure and related expenditures;

WHEREAS, pursuant to the FILOT Act, and in order to induce investment in the County, the County Council commits to enter into a Fee Agreement with the Company with respect to certain proposed investment by the Company. formerly known to the County as “**Project Avalanche**”, with respect to the acquisition, construction, and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property constituting a new facility in the County for the establishment of a mixed-use, pedestrian friendly community anchored by a practice facility, headquarters offices and sports/entertainment venue with emphasis on retail/entertainment/media production, sports medicine, hospitality, employment, research and development, commercial, indoor and outdoor recreation and open space uses facility and related improvements at one or more locations in the County (collectively, the “**Project**”);

WHEREAS, the Company has represented that the Project will involve an investment, in the aggregate, of at least five hundred million dollars (\$500,000,000.00) (the Contract Minimum Investment Requirement as such term is defined in the Fee Agreement) and will create, or cause to be created, in the aggregate, at least 150 new, full-time jobs within the County, and a deemed investment amount of five hundred million dollars (\$500,000,000.00) (the Deemed Phase Two Investment as such term is defined and as calculated in the Fee Agreement). The Company anticipates that the Project will over time extend beyond the first two phases of the Project (Project Phase One and Project Phase Two as such terms are defined in the Fee Agreement) bringing additional investment and jobs to the Project site. For purposes of this Project “full-time” shall have the meaning set forth in Title 12, Chapter 6, Section 3360 of the Code as of the date hereof, which states in part that full-time means a job requiring a minimum of thirty-five (35) hours of an employee’s time a week for the entire normal year of company operations or a job requiring a minimum of thirty-five (35) hours of an employee’s time for a week for a year in which the employee was hired initially for or transferred to the South Carolina facility and for members of a professional sports team, “full-time” means a job requiring a minimum of one hundred eighty (180) days of an employee’s time a year of which at least eighty percent (80%) of such days must be spent at a professional sports team park located in South Carolina, in connection therewith in the County, and the Contract Minimum Investment Requirement within the County will occur by December 31 of the eighth (8th) year after the first year which any portion of the Project is first placed in service, as extended if certain conditions are met, all in accordance with the Fee Agreement to be executed by the County, the Company and any Sponsor Affiliates (whether added at the time the Fee Agreement is first executed or thereafter) (the “**Investment Period**”);

WHEREAS, pursuant to the MCIP Act and Article VIII, Section 13 of the State Constitution, the County will cause the sites on which the Project is or will be located and one or more sites owned by the Company, its affiliates or related entities, successors and assigns, as may be requested by the Company, to be included in a Multi-County Park established by the County pursuant to a qualifying agreement with an adjoining South Carolina county (the “MCIP Agreement”) if the Project sites are not already located in a Park by April 30, 2020 on terms which provide the Company and the Project with any additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and on terms, and for a duration, which facilitate, the County’s allocation of Multi-County Park fees;

WHEREAS, the County acknowledges that the City of Rock Hill, South Carolina (the “City”) intends to annex all or a portion of the property situated in the Multi-County Park, and to issue or facilitate the issuance of SSRBs, MID Bonds, and Refunding Bonds (as such terms are defined in the Interlocal Agreement the “**Bonds**”) equal to two hundred twenty-five million dollars (\$225,000,000) to finance certain qualifying infrastructure serving the City, the County and the Project (the “**Infrastructure**”) as provided for in the Fee Agreement a portion of which the County wishes to preapprove (the “**Park Projects**”), and the County further acknowledges that such Park Projects would benefit the County. The County, with the City’s consent as set out in the Interlocal Agreement, as attached to the Fee Agreement and incorporated therein by reference, wishes to pledge a portion of the Park Fees (as such term is defined in the Interlocal Agreement) in connection with the financing of costs of the Project on such terms and subject to the requirements described in the Interlocal Agreement;

WHEREAS, the County agrees that it will not impose any targeted taxes on the Company, its affiliates, related entities, successors and assigns, Sponsor Affiliates or the Project, meaning no imposition of any taxes or government charges on receipts from sales or purchases, activities, income, gross receipts, capital gains or other taxes or fees unless the charge applies to the same or similar activities conducted by all or a broad range of businesses or persons within the County;

WHEREAS, the County agrees to grant the Company, its affiliates, and related entities, successors and assigns, the exclusive right to place Project-related wayfarer signage (which signage may include the names of Project sponsors) on County-owned rights of way outside of the Project sites, subject to the consent of the County, which consent shall not be unreasonably withheld, conditioned or delayed, so long as the placement is in conformity with the County encroachment permit process and the signage does not create any safety hazards or interfere with driver line of sight requirements of the County;

WHEREAS, the County has determined and found after considering all relevant factors and criteria as prescribed by law (with assistance, to the extent needed, from the South Carolina Department of Revenue and/or Board of Economic Advisors) that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and that 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; that the purposes to be accomplished by the Project, i.e., economic development, jobs, and addition to the tax base of the County, are proper governmental and public purposes; that the inducement of the location or expansion of the Project within the County and State is of paramount importance; and that the benefits of the Project will be greater than the costs;

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a “project” and “economic development property” as such terms are defined in the FILOT Act, and that the Project would serve the purposes of the FILOT Act;

WHEREAS, the County has determined on the basis of the information supplied to it by

the Company that the Project would constitute an “enhanced investment,” as that term is defined in the FILOT Act;

WHEREAS, the County has intends to, among other things, (a) enter into, execute and deliver a Fee Agreement with the Company, whereby the County would provide therein for a payment of a fee-in-lieu of taxes by the Company with respect to the Project including the provision of certain special source and/or infrastructure improvement credits and/or bonds; (b) to covenant with such industry to accept FILOT payments; (c) to create, in conjunction with one or more other counties, a Multi-County Park under the MCIP Act in order to afford certain enhanced income tax credits to certain qualifying industry and to facilitate the use of payments in lieu of taxes received by the County with respect to real and personal property located within such Multi-County Park to assist in defraying the cost of certain qualifying Infrastructure and related expenditures; and (d) to provide other economic development incentives and other matters related thereto;

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of the Fee Agreement which the County proposes to execute and deliver; and

WHEREAS, it appears that the documents above referred to, which are now before this meeting, are in appropriate form and are an appropriate instrument to be executed and delivered or approved by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED, by the County Council as follows:

Section 1. Based on information supplied by the Company, it is hereby found, determined and declared by the County Council, as follows:

(a) The Project will constitute a “project” and “economic development property” as said terms are 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 will constitute an “enhanced investment,” as that term is defined in the FILOT Act;

(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 provided locally;

(d) The Project will give 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; and

(f) The benefits of the Project are anticipated to be greater than the costs.

Section 2. The form, terms and provisions of the Fee Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The County Council hereby authorizes the Chairman of the County Council and/or the County Manager, along with any designees and agents any of these officials deems necessary and proper, to execute, acknowledge and deliver the Fee Agreement in the name of and on behalf of the County, and the Clerk to County Council is hereby authorized and directed to attest the same, and thereupon to cause the Fee Agreement to be delivered to the Company and cause a copy of the same to be delivered to the York County Auditor, Assessor and Treasurer. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall be negotiated in good faith and approved by the Chairman of the County Council, the County Manager, or the County Attorney along with any designees and agents any of these officials deems necessary and proper (each an “Authorized Individual”), execution thereof to constitute conclusive evidence of her approval of any and all changes or revisions therein from the form of Fee Agreement now before this meeting. The County Council acknowledges and agrees that no annual revenue received pursuant to the Fee Agreement contemplated and authorized herein shall be directed to the Economic Development Fund as otherwise provided in Section 35.155 of the York County Code of Ordinances. The County Council further authorizes the Authorized Individuals to negotiate in good faith, to execute, acknowledge and deliver the MCIP Agreement, Interlocal Agreement, and any and all other agreements that may be necessary to effect the performance of all obligations of the County thereunder and induce the Company to locate the Project in the County, and authorizes and ratifies all actions previously undertaken by Authorized Individuals with respect to the Project.

Section 3. The Chairman of County Council, the County Manager, the County Attorney and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement, MCIP Agreement, Interlocal Agreement, and any and all other agreements that may be necessary to effect the performance of all obligations of the County thereunder.

Section 4. The County acknowledges that the Company agrees to make the Contract Minimum Investment Requirement beginning with the first day that FILOT Act property is purchased or acquired, whether before or after the date of the Fee Agreement, and ending on the eighth (8th) anniversary of the Commencement Date (as such term is defined in the Fee Agreement); provided however, that in the event the Company makes the Contract Minimum Investment Requirement on or prior to the date ending on the eighth (8th) anniversary of the Commencement Date, this period will be automatically extended for an additional five (5) years for a total of thirteen (13) years from and after Commencement Date.

Section 5. The County acknowledges that the Company commits to creating not less than one hundred fifty (150) new full-time jobs (with benefits), and for purposes of this Project “full-time” shall have the meaning set forth in Title 12, Chapter 6, Section 3360 of the Code as of the date hereof, which states in part that full-time means a job requiring a minimum of thirty-five (35) hours of an employee’s time a week for the entire normal year of company operations or a job requiring a minimum of thirty-five (35) hours of an employee’s time for a week for a year in which the employee was hired initially for or transferred to the South Carolina facility and for members of a professional sports team, “full-time” means a job requiring a minimum of one

hundred eighty days (180) of an employee's time a year of which at least eighty percent (80%) of such days must be spent at a professional sports team park located in South Carolina, at the Project sites within the Investment Period (the "Job Creation Requirement").

Section 6. The County Council hereby authorizes a FILOT for the Project for a period of forty (40) years, which period may be extended ten (10) years upon application of the Company to the County for consent, which consent shall not be unreasonably withheld, conditioned, or delayed, to be reflected in a Fee Agreement containing, without limitation, the following terms: (i) a fixed assessment ratio on the Project's economic development property not to exceed four percent (4%); (ii) a fixed millage rate equal to the millage rate of 424.4 mills; and (iii) the fair market value of the Project property shall be as determined in accordance with the FILOT Act, provided the fair market value of the Project shall not be determined by appraisal as otherwise permitted by Section 12-44-50(A)(1)(c)(i) of the FILOT Act. The Fee Agreement shall not allow or incorporate the alternate payment methodology set forth in Section 12-44-50(A)(3) of the FILOT Act, or any successor statute. The above described FILOT payments shall be in addition to (i) any existing municipal improvement district or other special assessments applicable to the property which is subject to such municipal improvement district or other special assessments as of the date of this Agreement, (ii) the assessment imposed on property within the existing Landscape Maintenance Municipal Improvement District located within the City to the extent it includes any Project sites which are subject to the Landscape Maintenance Municipal Improvement District as of the date of this Agreement, (iii) and any assessments to be imposed on the property subject to this Agreement located within a Project Municipal Improvement District.

Section 7. The County, pursuant to the MCIP Act and Article VIII, Section 13 of the State Constitution, the County will cause the sites on which the Project is or will be located and one or more sites owned by the Company, its affiliates or related entities, successors and assigns, as may be requested by the Company, to be included in a Multi-County Park pursuant to a MCIP Agreement if the Project sites are not already located in a Park by May 4, 2020 on terms which provide the Company and the Project with any additional jobs creation tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks and on terms, and for a duration, which facilitate, the County's allocation of Multi-County Park fees.

Section 8. The County acknowledges that the City intends to annex all or a portion of the property situated in the Multi-County Park, and to issue or facilitate the issuance of Bonds equal to two hundred twenty-five million dollars (\$225,000,000) to finance certain qualifying Infrastructure serving the City, the County and the Project as provided for in the Fee Agreement a portion of which the County preapproves, and the County further acknowledges that such Infrastructure would benefit the County. The County, with the City's consent as set out in the Interlocal Agreement, as attached to the Fee Agreement and incorporated therein by reference, wishes to pledge a portion of the Park Fees (as such term is defined in the Interlocal Agreement) in connection with the financing of costs of the Project on such terms and subject to the requirements described in the Interlocal Agreement;

Section 9. The County agrees to that, to the extent not already executed and delivered as of the date hereof, the County will negotiate the terms of the Interlocal Agreement with the City in good faith, with the intent that the Interlocal Agreement and the allocation and distribution of

Multi-County Park fees shall allow the City to service the debt of the Bonds issued to finance the Infrastructure among other terms of the Interlocal Agreement.

Section 10. The County agrees that it will not impose any targeted taxes on the Company, its affiliates, related entities, successors and assigns, Sponsor Affiliates or the Project, meaning no imposition of any taxes or government charges on receipts from sales or purchases, activities, income, gross receipts, capital gains or other taxes or fees unless the charge applies to the same or similar activities conducted by all or a broad range of businesses or persons within the County.

Section 11. The County agrees to grant the Company, its affiliates, and related entities, successors and assigns, the exclusive right to place Project-related wayfarer signage (which signage may include the names of Project sponsors) on County-owned rights of way outside of the Project sites, subject to the consent of the County, which consent shall not to be unreasonably withheld, conditioned or delayed.

Section 12. The County Council agrees to provide the Company, its affiliates, related entities, successors and assigns, and any Sponsor Affiliates with the most favorable provisions allowable under the FILOT Act with respect to the disposal and replacement of personal property.

Section 13. To the extent permitted by the FILOT Act, the County Council agrees to waive the recapitulation requirements set forth in the FILOT Act.

Section 14. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 15. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This ordinance shall take effect and be in full force from and after its passage by the County Council.

[Signature Page to Follow]

ENACTED in meeting duly assembled this 20th day of April, 2020.

YORK COUNTY, SOUTH CAROLINA

By: _____
Michael Johnson
Chairman of County Council

York County, South Carolina

ATTEST:

By: _____

David Hudspeth, County Manager
York County, South Carolina

First Reading: March 11, 2020
Second Reading: March 16, 2020
Third Reading: April 20, 2020
Public Hearing: April 20, 2020

STATE OF SOUTH CAROLINA

COUNTY OF YORK

I, the undersigned Clerk to County Council of York County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received unanimous approval, by the County Council at its meetings of March 11, 2020, March 16, 2020, and April 20, 2020, at which meetings a quorum of members of County Council were present and voted, and an original of which ordinance is filed in the permanent records of the County Council.

Clerk to County Council,
York County, South Carolina

Dated: April 20, 2020