Sponsor(s)	: County Council
First Reading	: August 27, 2024
Committee Referral	: N/A
Committee Consideration Date	: N/A
Committee Recommendation	: N/A
Second Reading	: October 1, 2024
Public Hearing	: November 12, 2024
Third Reading	: November12, 2024
Effective Date	: Immediately

I, Kaela Brinson, Council Clerk, certify that this Ordinance was advertised for Public Hearing on October 24, 2024.

ORDINANCE NO. 24-O-13

COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR COLLETON COUNTY

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN COLLETON COUNTY AND WAYNE BROTHERS, INC. (FORMERLY KNOWN TO THE COUNTY AS PROJECT IRONSIDES), INCLUDING ANY RELATED OR AFFILIATED ENTITIES AND ANY SPONSOR AFFILIATES, WHEREBY COLLETON COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH WAYNE BROTHERS, INC.; PROVIDING FOR PAYMENT BY WAYNE BROTHERS, INC. OF CERTAIN FEES IN LIEU OF AD VALOREM TAXES; PROVIDING FOR CERTAIN SPECIAL SOURCE REVENUE OR INFRASTRUCTURE CREDITS; TO FURTHER AMEND THE AGREEMENT FOR DEVELOPMENT OF A JOINT COUNTY INDUSTRIAL PARK BETWEEN COLLETON COUNTY, SOUTH CAROLINA AND HAMPTON COUNTY, SOUTH CAROLINA, PROVIDING FOR THE DEVELOPMENT OF A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK, SO AS TO INCLUDE ADDITIONAL PROPERTY IN COLLETON COUNTY AS PART OF THE PARK; PROVIDING FOR THE ALLOCATION OF FEE-IN-LIEU OF TAXES PAID BY WAYNE BROTHERS, INC., UNDER THE AGREEMENT FOR ESTABLISHMENT OF MULTI-COUNTY INDUSTRIAL/BUSINESS PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Colleton 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 of the Code of Laws of South Carolina 1976, as amended (the "FILOT Act"), to designate real and tangible personal property as "economic development property" and to enter into an arrangement which provides for payment in lieu of taxes ("Negotiated FILOT Payments") for a project qualifying under the FILOT Act; and

WHEREAS, the County, acting by and through the County Council, is authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code (the "MCIP Act"), to provide for payments in lieu of taxes ("PILOT Payments") with respect to property situated or having a situs in a multi-county business or industrial park created under the MCIP Act, and pursuant to Section 4-1-175 and 4-29-68 of the Code (the "SSRC Act"), to permit investors to claim infrastructure or special source revenue credits against their PILOT Payments (including any Negotiated FILOT Payments) to reimburse such investors for expenditures for infrastructure serving Colleton County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of a manufacturing or commercial

enterprise in order to enhance the economic development of Colleton County ("Infrastructure Improvements"), to facilitate the grant of infrastructure or special source revenue credits, and to provide certain enhanced tax credits to such investors; and

WHEREAS, in order to promote the economic welfare of the citizens of Colleton County and Hampton County (collectively, the "the Counties") by providing employment and other benefits to the citizens of the Counties, the Counties entered into an Agreement for the Development of a Joint County Industrial Park between Colleton County and Hampton County, South Carolina, executed on December 11, 2007 by Colleton County and on January 22, 2008 by Hampton County (the "Original Park Agreement"), to develop jointly an industrial and business park (the "Park"), as provided by Article VIII, Section 13 of the South Carolina Constitution and in accordance with the MCIP Act; and

WHEREAS, the Original Agreement was initially approved by Colleton County Council Ordinance 07-O-29, adopted December 4, 2007; and was further amended from time-to-time to add or remove property to the Park; and

WHEREAS, the Original Park Agreement, as amended, is referred to herein as the "Park Agreement," and

WHEREAS, the Park Agreement contemplates the inclusion and removal of additional parcels within the Park from time to time; and

WHEREAS, Wayne Brothers, Inc. (formerly identified by the County as "Project Ironsides"), a North Carolina Corporation (the "Company"), intends to acquire, construct, renovate, furnish, and equip a construction services facility, including the acquisition of real property, the construction of buildings, and the furnishing of the facility with machinery and equipment (the "Project"); the Project is to be located at 101 Venture Way, Walterboro, Colleton County, South Carolina 29488, as more particularly described in Exhibit A attached hereto. (collectively, the "Project Site"); and

WHEREAS, the Project when completed will represent an anticipated "investment" (as defined in the FILOT Act) (the "Investment") by the Company in the aggregate not less than $35,545,229, of which $25,545,229 will be in real property (land and building) and $10,000,000 will be in tangible business personal property (new machinery and equipment) to be located at the Project Site; and

WHEREAS, the County has been advised that the Project is anticipated to employ approximately 170 full-time employees within five (5) years of the date of enactment of this Ordinance; and

WHEREAS, the County is authorized to include the site of the Project Site within a multi-county industrial and business park pursuant to the MCIP Act and to provide special source revenue or infrastructure credits pursuant to the SSRC Act; and

WHEREAS, the Project is located entirely within Colleton County and will be included in and subject to the multi-county park and fee-in-lieu of tax arrangements as described herein; and

WHEREAS, the County has made specific proposals, including proposals to offer certain economic development incentives set forth herein, for the purpose of inducing the Company to invest its funds to acquire, construct, renovate, furnish, and equip the Project (the "Incentives"); and

WHEREAS, it is in the public interest, for the public benefit, and in furtherance of the public purposes of the FILOT Act, the SSRC Act, and the MCIP Act for the County Council to provide final approval for qualifying the Project under the FILOT Act, the SSRC Act, and the MCIP Act for the Incentives;

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

Section 1. Evaluation of the Project. County Council have evaluated the Project on the following criteria based upon any advice and assistance of the South Carolina Department of Revenue and the Revenue and Fiscal Affairs Office, as necessary:

(a) the purposes to be accomplished by the Project are proper governmental and public purposes;

(b) the anticipated dollar amount and nature of the investment to be made; and

(c) the anticipated costs and benefits to the County.

Section 2. Findings by County Council. Based upon information provided by and representations of the Company, County Council's investigation of the Project, including the criteria described in Section 1 above, and any advice and assistance of the South Carolina Department of Revenue and the Revenue and Fiscal Affairs Office, as necessary, County Council hereby find that:

(a) the Project constitutes a "project" as that term is defined in the FILOT Act;

(b) the Project will serve the purposes of the FILOT Act, the SSRC Act, and the MCIP Act;

(c) the Investment by the Company in the Project will be approximately $35,545,229, all to be invested within the "investment period" (as defined in the FILOT Act); and the Company will employ 170 new full-time employees at the Project within five (5) years of the date of enactment of this Ordinance;

(d) the Project will be located entirely within Colleton County and is anticipated to be located in the Park created pursuant to the MCIP Act;

(e) the Infrastructure Improvements to be financed or reimbursed from the SSRCs consist of infrastructure serving Colleton County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of Colleton County; and

(f) the Project is anticipated to benefit the general welfare of Colleton County by providing services, employment, or other public benefits not otherwise adequately provided locally;

(g) the Project gives rise to neither a pecuniary liability of the County nor a charge against its general credit or taxing power;

(h) the purposes to be accomplished by the Project are proper governmental and public purposes;

(i) the inducement of the location of the Project is of paramount importance; and

(j) the benefits of the Project to the public are greater than the cost to the public.

Section 3. Fee-in-Lieu of Taxes Arrangement. Pursuant to the authority of the FILOT Act, the Project is designated as "economic development property" under the FILOT Act and there is hereby authorized a fee-in-lieu of taxes arrangement with the Company which will provide Negotiated FILOT Payments to be made with respect to the Project based upon a 6% assessment ratio with the millage rate which is the lower of (a) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the year preceding the calendar year in which the FILOT Agreement (as defined below) is executed or (b) the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located on June 30 of the calendar year in which the FILOT Agreement is executed, such rate to be fixed for the entire 25-year term of the fee-in-lieu of taxes, all as more fully set forth in the Fee-in-lieu of Tax Agreement between the County and the Company (the "FILOT Agreement"). The FILOT Agreement shall be a "Fee Agreement" within the meaning of Section 12-44-30(10) of the FILOT Act.

Section 4. Multi-County Park Incentive.

(A) The County will use its commercially reasonable efforts, in cooperation with Hampton County (the "Partner County"), to designate the Project Site as a multi-county business park pursuant to Article VIII, Section 13 of the South Carolina Constitution, the MCIP Act, and the terms of the Agreement for the Development of a Joint County Industrial Park between the County and Hampton County, South Carolina, executed on December 11, 2007 by Colleton County and on January 22, 2008 by Hampton County, as amended to add the Project Site, and as further amended, supplemented, or replaced from time to time (the "MCIP Agreement").

(B) The County will provide for 10 years that the annual allocation of the PILOT Payments generated by the Project will be distributed (after distribution of a portion of the PILOT Payments to the Partner County in accordance with the MCIP Agreement) as follows:

(i) To the County, for providing the SSRCs (as defined in Section 5 hereof), an amount equal to the annual SSRC provided in Section 5 of this Ordinance and in the FILOT Agreement; and

(ii) Except as may otherwise be provided by ordinance of the County Council from time to time, the balance of the PILOT Payments to the County and the other

overlapping taxing entities, in the same relative percentages as the relative millage rates imposed by such taxing entities for the applicable tax year.

Section 5. Special Source Revenue Credits.

(A) After the identification of qualifying public infrastructure located solely within Colleton County and the costs thereof to the satisfaction of the County, the County will provide to the Company an infrastructure or special source revenue incentive (the "SSRCs") as follows:

(i) An annual SSRC of the annual PILOT Payments and Negotiated FILOT payments due with respect to the Project in property tax years one (1) through ten (10) of the term of the FILOT Agreement, as follows:

a. SSRC of 50% for Year 1;

b. SSRC of 80% for Year 2;

c. SSRC of 70% for Year 3;

d. SSRC of 60% for Year 4;

e. SSRC of 50% for Year 5;

f. SSRC of 40% for Year 6;

g. SSRC of 30% for Year 7; and

h. SSRC of 10% for Years 8 through 10.

(B) The documents providing for the SSRCs shall include customary terms providing: (i) for the recovery by the County, on a pro rata basis, of certain moneys if certain thresholds are not achieved (a "clawback" provision); (ii) that the Company will pay the County's administrative expenses associated with the approval and administration of the SSRC; (iii) that under certain terms and conditions, the County will have access to certain information of the Company; and (iv) that the Company will indemnify and hold the County harmless for claims, losses, and damages with respect to the Project.

Section 6. Execution of the FILOT Agreement. The form, terms, and provisions of the FILOT Agreement presented to the meeting at which this Ordinance received third reading and filed with the Clerk of the County Council be and hereby are approved, and all of the terms, provisions, and conditions thereof are hereby incorporated herein by reference as if such FILOT Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and the Clerk of the County Council be and they are hereby authorized and directed to execute and deliver the FILOT Agreement in the name and on behalf of the County, and thereupon to cause the FILOT Agreement to be delivered to the Company. The FILOT Agreement is to be in substantially the form before the meeting of County Council at which this Ordinance received third reading and hereby approved, or with any changes therein as shall not materially adversely affect the rights of the County thereunder, upon the advice of legal counsel, by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of all changes therein from the form of FILOT Agreement presented to said meeting.

Section 7. Miscellaneous.

(a) The Chairman and all other appropriate officials of the County are hereby authorized to execute, deliver, and receive any other agreements and documents as may be required by the County in order to carry out, give effect to, and consummate the transactions authorized by this Ordinance.

(b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

(c) This Ordinance shall become effective immediately upon approval following third reading by the County Council.

(d) The provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

(e) All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

[signature page to follow]

COLLETON COUNTY,
SOUTH CAROLINA

Steven D. Murdaugh, Chairman
Colleton County Council

(SEAL)

ATTEST:

Kaela Brinson, Clerk to Council
Colleton County, South Carolina

First Reading:	August 27, 2024
Second Reading:	October 1, 2024
Third Reading:	November 12, 2024
Public Hearing:	November 12, 2024

Exhibit A

Project Sites

FEE-IN-LIEU OF TAX AGREEMENT

BY AND BETWEEN

COLLETON COUNTY, SOUTH CAROLINA

AND

WAYNE BROTHERS, INC.

DATED AS OF [November 12, 2024

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FEE-IN-LIEU OF TAX AGREEMENT

THIS FEE-IN-LIEU OF TAX AGREEMENT (the "**FILOT Agreement**") dated as of June 11, 2025, is entered into by and between **COLLETON COUNTY, SOUTH CAROLINA** (the "**County**"), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the "**County Council**") as the governing body of the County, and **WAYNE BROTHERS, INC.**, a [North Carolina] corporation acting for itself, its successors, assignees, or transferees as permitted hereunder, including without limitation any affiliates and sponsor affiliates (the "**Company**"); the County, the Company, any other Sponsors (as defined herein), and any permitted assignees are collectively referred to herein as the "**Parties**" and each, as a "**Party**."

W I T N E S S E T H:

WHEREAS, the County acting by and through the County Council is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the "**FILOT Act**"), to designate real and tangible personal property as "economic development property" and to enter into an arrangement which provides for a negotiated payment in lieu of taxes ("**Negotiated FILOT Payments**") for a project qualifying under the FILOT Act; and

WHEREAS, the County, acting by and through the County Council, is further authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the "**MCIP Act**"), to provide for payments in lieu of taxes ("**PILOT Payments**") with respect to property located in a multi-county business or industrial park created under the MCIP Act and to create, in conjunction with one or more other counties, a multi-county park (the "**Multi-County Park**") in order to afford certain enhanced tax credits to such investors and to use all or a portion of the PILOT Payments resulting from such designation to pay, or reimburse such investors for paying, the cost of infrastructure used in the operation of a manufacturing or commercial enterprise ("**Infrastructure Improvements**"), which serves the economic development of the County pursuant to the MCIP Act and Section 12-44-70 of the FILOT Act; and

WHEREAS, the Company proposes to locate its operations in Colleton County by acquiring, constructing, renovating, furnishing, and equipping a construction services facility, including the acquisition of real property, the construction of buildings, and the furnishing of the facility with machinery and equipment (collectively, the "**Project**") at 101 Venture Way, Walterboro, Colleton County, South Carolina 29488, as more particularly described on the attached Exhibit A (collectively, the "**Project Site**"); and

WHEREAS, the Project, when completed, will represent an anticipated investment by the Company of not less than $35,545,229, of which $35,545,229 is an "investment" as defined in the FILOT Act (the "**Investment**") by the Company in real and personal property (the "**Economic Development Property**"); and

WHEREAS, the County has been advised by the Company that the Project is anticipated to employ approximately 170 full-time employees at the Project; and

WHEREAS, the Project is located entirely within Colleton County and will be included in and subject to the multi-county park and fee-in-lieu of tax arrangements as described herein; and

WHEREAS, the County has made specific proposals, including proposals to offer certain economic development incentives set forth herein, for the purpose of inducing the Company to invest its funds to acquire, construct, and equip the Project (the "**Incentives**"); and

WHEREAS, pursuant to the FILOT Act, and based on factual representations by the Company to the County, the County has found that: (a) it is anticipated that the Project will benefit the general public welfare of the County by providing services, employment, recreation, and other public benefits not otherwise adequately provided locally; (b) neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against the general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project to the public are greater than the costs to the public; and

WHEREAS, pursuant to an Ordinance enacted on November 12, 2024, the County Council authorized the County to enter into this FILOT Agreement with the Company, which (a) commits the County to putting the Project Site into a Multi-County Park, (b) identifies property as "economic development property" under the FILOT Act subject to the terms and conditions hereof, and (c) provides credits against the payments in lieu of taxes with respect to the Economic Development Property to reimburse the Company for payment of the costs of certain Infrastructure Improvements related to the Project Site; and

WHEREAS, this FILOT Agreement is a "Fee Agreement" within the meaning of Section 12-44-30(10) of the FILOT Act;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained and other valuable consideration, and the sum of $10.00 in hand, duly paid by the Company to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Company, agree as follows:

ARTICLE I

RECAPITULATION AND DEFINITIONS

SECTION 1.1. ***Statutorily Required Recapitulation.***

(a) Pursuant to Section 12-44-55(B) of the FILOT Act, the County and the Company agree to waive the recapitulation requirements of Section 12-44-55. Subsection (b) of this Section is inserted for convenience only and does not constitute a summary compliant with Section 12-44-55(B) of the Code.

(b) ***Recapitulation.***

1. Legal name of each party to this FILOT Agreement:

   Colleton County, South Carolina, as signatory

   Wayne Brothers, Inc., as signatory and Sponsor within the meaning of Section 12-44-30(19) of the FILOT Act

2. County and street address of the project and property to be subject to this FILOT Agreement:

   101 Venture Way
   Walterboro, South Carolina 29488
   Coleton County

3. Minimum investment agreed upon: $35,545,229

4. Length and term of this FILOT Agreement:

   25 years for each Stage (as defined herein)

5. Assessment ratio applicable for each year of this FILOT Agreement: 6%

6. Millage rate applicable for each year of this FILOT Agreement:

   Every year of the term: 360.69

7. Investment Period: 5 years

8. (a) The Project is located in a multi-county park formed pursuant to the MCIP Act.
   (b) Disposal of property subject to the fee is allowed.
   (c) Special source credits will be provided.
   (d) Payment will not be modified using a net present value calculation.
   (e) Replacement property provisions will apply.

SECTION 1.2. ***Rules of Construction; Use of Defined Terms.*** Unless the context clearly indicates otherwise, in this FILOT Agreement words and terms defined in **Section 1.3** hereof or elsewhere in this FILOT Agreement are used with the meanings ascribed thereto. The definition of any document shall include any amendments or supplements to that document, unless the context clearly indicates otherwise.

SECTION 1.3. ***Definitions.***

"Affiliate" means any corporation, limited liability company, partnership, or other Person or entity which owns all or part of the Company or any other Sponsor or Sponsor Affiliate or which is owned in whole or in part by the Company or any other Sponsor or Sponsor Affiliate or by any partner, shareholder, or owner of the Company or any other Sponsor or Sponsor Affiliate.

"Chairman" means the Chairman of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Chairman).

"Code" means Code of Laws of South Carolina 1976, as in effect on the date hereof, as the same may be amended from time to time.

"Co-Investor" means any Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Code, any Affiliate of the Company or of any such Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in or providing funds for the Project. [As of the date of execution and delivery of this FILOT Agreement, the Company is the only Co-Investor.]

"Commencement Date" means the last day of the property tax year during which Economic Development Property is first placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor have entered into this FILOT Agreement. The Parties anticipate that the Commencement Date will be in the property tax year ending on December 31, 2025.

"Company" means Wayne Brothers, Inc., a [North Carolina] corporation, and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets (and any subsequent such entities), or any successor, assignee, or transferee hereunder, in whole or in part, permitted under **Section 4.4** hereof (and any subsequent such entities) or any other assignee or transferee hereof which is designated by the Company and approved by the County.

"County" means Colleton County, South Carolina, and its successors and assigns.

"County Administrator" means the County Administrator for the County (or the person or persons authorized to perform the duties thereof in the absence of the County Administrator).

"County Council" means the County Council of the County.

"Documents" means the Ordinance, the Multi-County Park Agreement, the ordinances enacted by the County Council to create the Multi-County Park and to add the Project Site to the Multi-County Park, and this FILOT Agreement.

"DOR" means the South Carolina Department of Revenue and any successor thereto.

"Economic Development Property" means (i) each item of real and tangible personal property improvements at the Project Site which is placed in service during the Investment Period and which meets the requirements of Sections 12-44-30(6) and 12-44-40(C) of the Code

and other requirements of the FILOT Act, excluding specifically any Non-Qualifying Property, and (ii) any Replacement Property, all as measured in accordance with the provisions of **Section 4.2** hereof.

"Equipment" means all machinery, apparatus, equipment, fixtures, office facilities, furnishings, and other personal property located at the Project Site to the extent such property becomes Economic Development Property under this FILOT Agreement.

"Event of Default" means any Event of Default specified in **Section 7.1** of this FILOT Agreement.

"Exemption Period" means the period of time beginning on the first day of the property tax year after the property tax year in which an applicable piece of Economic Development Property is placed in service and ending on the Termination Date. For projects which are completed and placed in service during more than one property tax year, the Exemption Period applies to each year's investment made by a Sponsor during the Investment Period.

"Existing Property" means property proscribed from becoming Economic Development Property under this FILOT Agreement pursuant to Section 12-44-110 of the Code, including without limitation any existing buildings and other real property improvements located on the Project Site, and any other property which has been subject to *ad valorem* taxes in the State prior to commencement of the Investment Period and property included in the Multi-County Park as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (i) the land portion of the Project Site; (ii) property acquired or constructed by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the commencement of the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property or which was placed in service in the State pursuant to an inducement agreement or other preliminary approval by the County prior to execution of this FILOT Agreement pursuant to Section 12-44-40(D) and (E) of the FILOT Act; (iii) property purchased by or on behalf of the Company or any other Sponsor or Sponsor Affiliate during the Investment Period in a transaction other than between any of the entities specified in Section 267(b) of the Internal Revenue Code, as defined under Chapter 6 of Title 12 of the Code as of the time of the transfer, to the extent that the Company or such other Sponsor or Sponsor Affiliate invests at least an additional $45,000,000 in the Project, exclusive of the property identified in this subsection (iii); or (iv); or (iii) modifications which constitute an expansion of the real property portion of Existing Property, all as determined pursuant to Section 12-44-110 of the Code.

"FILOT Act" means Title 12, Chapter 44 of the Code.

"FILOT Agreement" means this Fee-in-Lieu of Tax Agreement dated as of May 30,2025, by and between the County and the Company, as Sponsor, as originally executed and from time to time supplemented or amended as permitted herein.

"FILOT Term" means the duration of this FILOT Agreement with respect to each Stage of the Economic Development Property as specified in **Section 8.2** hereof.

"Force Majeure" as used herein means circumstances not reasonably within the control of the Parties, such as without limitation, acts of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilisation or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; pandemics, requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy.

"Infrastructure Improvements" means, to the extent paid for by the Company or other Sponsor or Sponsor Affiliate, any infrastructure serving the economic development of Colleton County and any improved and unimproved real property, buildings, structural components of buildings, fixtures, or other real property improvements and personal property, including machinery and equipment, used or to be used in the operation of a manufacturing or commercial enterprise] in order to enhance the economic development of Colleton County, all as set forth in the Special Source Act. For purposes of this FILOT Agreement, Infrastructure Improvements shall initially be deemed to include, without limitation, all roadwork, water, sewer, drainage, power and utility facilities serving the Project, as well as the land constituting the Project Site, the buildings, fixtures, and other real property improvements on the Project Site, including but not limited to, any buildings located on the Project Site as of the date of original execution and delivery of this FILOT Agreement,] and any additions or improvements to any of the foregoing, whether paid by the Company or any other Sponsor or Sponsor Affiliate directly or through lease payments.

"Investment Period" means the period beginning with the first day that Economic Development Property for the Project is purchased or acquired and ending on the last day of the fifth property tax year following the Commencement Date, subject to extension as provided in **Section 4.1** hereof. In the event that the initial Economic Development Property to be placed in service will be placed in service by December 31, 2025, as is presently anticipated by the Company, the Investment Period will end on December 31, 2050 (unless extended as provided in **Section 4.1(c)** hereof).

"Minimum Statutory Investment Requirement" means investment made in acquiring Economic Development Property by each of the Company, any other Sponsor and any Sponsor Affiliate of not less than $2,500,000 prior to the end of the Investment Period.

"Multi-County Park" means the joint county business and industrial park established pursuant to the Multi-County Park Agreement, and any multi-county industrial or business park which includes the Project Site.

"Multi-County Park Agreement" means the Agreement for the Development of a Joint County Industrial Park between the County and Hampton County, South Carolina, executed on December 11, 2007 by Colleton County and on January 22, 2008 by Hampton County, as amended to add the Project Site, and as further amended, supplemented, or replaced from time to time.

"Negotiated FILOT Payments" means the negotiated fee-in-lieu of tax payments due pursuant to **Section 5.1(a)** hereof with respect to the Economic Development Property which

qualifies pursuant to the FILOT Act for the negotiated assessment ratio and millage rate described in **Section 5.1(a)** hereof.

"Non-Qualifying Property" means that portion of the facilities located on the Project Site and consisting of: (i) Existing Property; (ii) except as to Replacement Property, property which the Company or another Sponsor or Sponsor Affiliate places in service after the end of the Investment Period; and (iii) any other property which fails or ceases to qualify for Negotiated FILOT Payments under the FILOT Act, including without limitation property as to which the Company or another Sponsor or Sponsor Affiliate has terminated the Negotiated FILOT Payments pursuant to **Section 8.3** hereof.

"Ordinance" means the Ordinance enacted by the County Council on November 12, 2024, authorizing the execution and delivery by the County of this FILOT Agreement as originally executed.

"PILOT Payments" means payments in lieu of taxes in the amount equivalent to *ad valorem* taxes for taxable property having a situs in the Multi-County Park.

"Person" means and includes any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

"Project" means collectively the acquisition, construction, renovation, furnishing, and equipping of a construction services facility, including the acquisition of the Project Site, the construction of buildings, and the furnishing of the facility with machinery and equipment on the Project Site.

"Project Site" means the real property on which the Project is or will be located as described in Exhibit A.

"Replacement Property" means any property acquired or constructed, including property acquired or constructed after the Investment Period, as a replacement for any property theretofore forming a part of the Economic Development Property and disposed of, or deemed disposed of, as provided in **Section 5.2** hereof.

"Special Source Act" means Sections 4-1-175, 4-29-68, and 12-44-70 of the Code.

"Special Source Credits" mean the credits described in **Section 5.3** hereof.

"Sponsor" means any one or more entities, within the meaning of Section 12-44-30(19) of the Code, which sign this FILOT Agreement with the County and satisfies the Minimum Statutory Investment Requirement, and subject to the provisions of Code Section 12-44-40, each of which satisfies the Minimum Statutory Investment Requirement. As of the date of original execution and delivery of this FILOT Agreement, the only Sponsor is the Company.

"Sponsor Affiliate" mean an entity, within the meaning of Section 12-44-30(20) of the Code, designated by the Company whose investment with respect to the Project will qualify for the Negotiated FILOT Payments pursuant to **Section 4.8** hereof if the requirements of the FILOT Act, including Code Sections 12-44-30(20) and Section 12-44-130 of the Code are satisfied. As of the date of original execution and delivery of this FILOT Agreement, there are no Sponsor

Affiliates.

"Stage" in respect of the Economic Development Property shall mean the year within which Economic Development Property, if any, is placed in service during each year of the Investment Period.

"State" means the State of South Carolina.

"Termination Date" means the earlier of (i) the date that is the last day of a property tax year that is no later than the twenty-fourth year following the first property tax year in which an applicable piece of Economic Development Property is placed in service (subject to extension as provided in **Section 8.4** hereof) or (ii) the date this FILOT Agreement is terminated pursuant to the provisions of **Section 8.3** hereof or (iii) the date this FILOT Agreement is automatically terminated in accordance with **Section 8.5** hereof.

SECTION 1.4. ***References to Code Sections.*** References herein to Titles, Chapters, or Sections, except for references to Sections of this FILOT Agreement or where the context clearly requires otherwise, refer to Sections of the Code of Laws of South Carolina 1976, as amended.

SECTION 1.5 ***DOR Memorandum.*** Attached hereto as Exhibit B is a memorandum from DOR providing basic information regarding the administration of the FILOT Incentives. The information set forth in Exhibit B was prepared by DOR and the County takes no responsibility regarding its accuracy, and the Company acknowledges that the County has no responsibility to amend or update Exhibit B in the event that it becomes aware of changes to the DOR memorandum. Exhibit B is attached to this FILOT Agreement merely to provide the Company with information that the County has received from DOR regarding DOR's advice to entities regarding FILOT Incentives in general. In the event of a conflict between the terms of this FILOT Agreement and the information set forth in Exhibit B, the terms of this FILOT Agreement shall control.

SECTION 1.6 ***Singular Includes Plural.*** *Error! Bookmark not defined.* Whenever used in this FILOT Agreement, the singular form or any term includes the plural form and the plural form includes the singular form.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.1. ***Representations and Warranties of the County.*** The County makes the following representations and warranties to the Company and covenants with the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and has full authority under the FILOT Act to execute the Documents to which it is a party and to fulfil its obligations described in the Documents. By proper action, the County Council has duly authorized the execution and delivery of the Documents to which the County is a party and has taken all such action as is necessary to permit the County to enter into and fully perform the transactions required of it under the Documents.

(b) Neither the execution and delivery of the Documents, nor the consummation and performance of the transactions described in the Documents, violate, conflict with, or will to its knowledge result in a material breach of any of the material terms, conditions, or provisions of any agreement, restriction, law, rule, order, or regulation to which the County is now a party or by which it is bound.

(c) To the best of the knowledge of the undersigned representatives of the County, there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any judicial or administrative court or agency, public board, or body, pending or threatened, against or affecting the County, any of which to the best of the knowledge of the undersigned representatives of the County, could materially adversely affect the County's obligations hereunder or the consummation of the transactions described in the Documents.

(d) The Documents to which the County is a party are (or, when executed, will be) legal, valid, and binding obligations of the County enforceable against the County under present law in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

SECTION 2.2. ***Representations and Warranties of the Company.*** The Company makes the following representations and warranties to the County:

(a) The Company is a corporation validly existing and in good standing under the laws of the State of [North Carolina] and qualified to do business in the State of South Carolina. The Company has all requisite power to enter into the Documents to which it is a party and to fulfil its obligations described in the Documents and, by proper action, has authorized the execution and delivery of the Documents to which it is a party.

(b) Neither the execution and delivery of the Documents to which the Company is a party, nor the consummation and performance of the transactions described in the Documents violate, or will, to its knowledge, conflict with or result in a material breach of any of the material terms, conditions, or provisions of any agreement, restriction, law, rule, order, or regulation to which the Company is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any judicial or administrative court or agency, public board, or body, pending or threatened, against or affecting the Company which could materially adversely affect the Company's obligations hereunder or the consummation of the transactions described in the Documents.

(d) The Documents to which the Company is a party are (or, when executed, will be) legal, valid, and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

(e) To the Company's knowledge, no event has occurred and no condition currently exists with respect to the Company, which would constitute a default or an Event of Default as defined herein.

ARTICLE III
COVENANTS AND AGREEMENTS OF THE COUNTY

SECTION 3.1. ***Agreement to Accept Negotiated FILOT Payments.*** The County hereby agrees to accept Negotiated FILOT Payments in accordance with **Section 5.1** hereof in lieu of *ad valorem* taxes with respect to that portion of the Project consisting of Economic Development Property until the Termination Date.

SECTION 3.2. ***Multi-County Park Designation.*** The County agrees to use its commercially reasonable efforts to designate the Project Site as part of a Multi-County Park pursuant to the Multi-County Park Act and will, to the extent permitted by law, use its commercially reasonable efforts to maintain such designation on terms which provide any additional jobs tax credits afforded by the laws of the State for projects located within multi-county industrial or business parks for all jobs created by the Company or any other Sponsor or Sponsor Affiliate during the Investment Period and which facilitate the Special Source Credit arrangements set forth herein, all for a term of not less than 25 years.

SECTION 3.3. ***Commensurate Benefits.*** The County acknowledges the intent of this FILOT Agreement, in part, is to afford the Company and any other Sponsor or Sponsor Affiliate the benefits specified in **Article V** in consideration of the Company's decision to locate the Project within Colleton County and this FILOT Agreement has been entered into in reliance upon the enactment of the FILOT Act and the County's compliance with the requirements thereof. In the event that a court of competent jurisdiction holds that the FILOT Act is unconstitutional or this FILOT Agreement is invalid or unenforceable in any material respect, then (a) at the request and expense of the Company, or any other Sponsor or Sponsor Affiliate, as the case may be, the County agrees to use its commercially reasonable efforts to extend to the Company and any other Sponsor or Sponsor Affiliate the intended benefits of a property tax (or its equivalent) on the Project calculated as set forth in **Section 5.1** hereof and agrees, if requested, to enter into a multi-county industrial park agreement with a special source revenue credit which is commensurate to such benefits which would otherwise accrue under this FILOT Agreement; or (b) at the request and expense of the Company or any other Sponsor or Sponsor Affiliate, as the case may be, the County agrees to use its commercially reasonable efforts to extend to the Company and any other Sponsor or Sponsor Affiliate the intended benefits of this FILOT Agreement and agrees, if requested, to enter into a lease purchase agreement with the Company and any other Sponsor or Sponsor Affiliate pursuant to Section 12-44-160, Title 4, Chapter 29 or Title 4, Chapter 12 of the Code, as applicable, upon terms and conditions (including evidence acceptable to the County that the Project Site is free from environmental contamination and mutually agreeable environmental indemnifications and warranties by the Company or any other Sponsor or Sponsor Affiliate) acceptable to the County and the Company, or to take such other steps as may be appropriate to extend to the Company and any other Sponsor or Sponsor Affiliate the intended benefits of this FILOT Agreement. The Company acknowledges, if a court of competent jurisdiction holds all or part of the FILOT Act is unconstitutional or otherwise illegal, the FILOT Act provides that the Economic Development Property must be transferred to the County within 180 days following such determination in order for the Negotiated FILOT Payments benefits to continue to apply. In such lease purchase agreement, the County, upon the conveyance of title to the Economic Development Property to

the County at the expense of the Company or any other Sponsor or Sponsor Affiliate, as the case may be, agrees to lease the Economic Development Property to the Company, or such other Sponsor or Sponsor Affiliate as the case may be, upon terms and conditions (including evidence acceptable to the County that the Project Site is free from environmental contamination and mutually agreeable environmental indemnifications and warranties by the Company or any other Sponsor or Sponsor Affiliate) acceptable to the County and the Company or such other Sponsor or Sponsor Affiliate, as the case may be.

SECTION 3.4. ***No Pecuniary Liability of the County.*** The Parties acknowledge and agree that any obligation which the County may incur for the payment of money as a result of the transactions described in the Documents shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under the Documents.

SECTION 3.5. ***Special Source Credits.*** As reimbursement for investment in Infrastructure Improvements related to the Project and subject to the requirements of the Special Source Act, the County agrees to provide Special Source Credits as set forth in **Section 5.3** hereof.

ARTICLE IV

COVENANTS AND AGREEMENTS OF THE COMPANY

SECTION 4.1. ***Investment and Employment Created at the Project.***

(a) The Company agrees to locate its operations in Colleton County by acquiring, constructing, renovating, furnishing, and equipping a construction services facility, including the acquisition of real property, the construction of buildings, and the furnishing of the facility with machinery and equipment at the Project Site in Colleton County, South Carolina [acquiring the Existing Facility by an anticipated investment by the Company of not less than $35,545,229 as an "investment" (as defined in the FILOT Act) in real and personal property which will constitute "economic development property" (as defined in the FILOT Act). Aggregate investment for this purpose shall generally be determined by reference to the property tax returns of the Company and any other Sponsor or Sponsor Affiliate pertaining to the Project and filed with respect to each property tax year without regard to depreciation.

(b) The Company further agrees that upon completion of the Project, the Company will provide at the Project employment for an approximately 170 full-time employees at the Project.

(c) The Company anticipates at least a portion of the Economic Development Property will be placed in service during the property tax year ending December 31, 2024, and that the acquisition, construction, and installation of the Project will be completed and placed in service during the property tax year ending December 31, 2025. Consequently, the Parties presently anticipate the Investment Period will end on December 31, 2026. The Company understands and acknowledges that if the Company does not anticipate completing the Project by

the end of the Investment Period, the Company or any other Sponsor or Sponsor Affiliate may apply to the County before the end of the Investment Period for an extension of time to complete the Project. Upon such application, the County may, in its discretion, extend the Investment Period by up to an additional five (5) years to end on the tenth anniversary of the end of the property tax year in which the initial Economic Development Property of the Project is placed in service; provided however that there may be no extension of the period for meeting the Minimum Statutory Investment Requirement (as provided in **Section 5.4** hereof) beyond the initial Investment Period, all determined as specified in Section 12-44-30(13) of the Code. The Company agrees to file a copy of any resolution of the County approving an extension of the Investment Period with the DOR within the time period required under Section 12-44-30 of the Code (currently within 30 days of the date such resolution was adopted).

(d) As required by Section 12-44-30(2) of the Code, the Company acknowledges that at least a portion of the Economic Development Property comprising the Project must be placed in service no later than the end of the property tax year which is three years from the year in which this FILOT Agreement is executed and delivered, *i.e.* the property tax year ending on December 31, 2024.

(e) The Company and each Co-Investor must each maintain such books and records with respect to the Project as will permit the identification of those portions of the Project each places in service in each property tax year during the Investment Period and the amount of the investment with respect thereto. The Company and each Co-Investor agrees to provide to the County, upon written request, copies of such financial books and records of the Company and any Co-Investor as the County may reasonably require to verify the calculations of Negotiated FILOT Payments by the Company or such Co-Investor.

SECTION 4.2. ***Economic Development Property.*** (a) The Parties agree that the Economic Development Property shall consist of such property located on the Project Site as may be identified by the Company or any Co-Investor in connection with annual filings with the DOR of Form SCDOR PT-300 or comparable property tax or fee in lieu of tax forms, and with such schedules as the DOR may provide in connection with projects subject to the FILOT Act (as such filings may be amended or supplemented from time to time) for each year within the Investment Period and, with respect to Replacement Property, each year thereafter during the term of this FILOT Agreement.

(b) Pursuant to the FILOT Act, the Company and the County hereby agree that the property comprising the Economic Development Property shall be "economic development property" as defined under the FILOT Act, so long as such property meets the requirements of the FILOT Act.

(c) Notwithstanding any other provision of this FILOT Agreement, the Company and any Co-Investor may place property into service at any time under this FILOT Agreement, but such property will only qualify as Economic Development Property under the FILOT Act if it is placed in service during the Investment Period, including any extension period, or is Replacement Property.

SECTION 4.3. ***Reports; Filings.*** The Company agrees to comply with the reporting requirements of Section 12-44-90 of the Code, including causing a copy of this FILOT

Agreement, as well as a copy of the completed Form PT-443 of DOR, to be filed with the Colleton County Auditor, the Colleton County Assessor, the Hampton County Auditor and the Hampton County Assessor and DOR within thirty (30) days after the date of execution and delivery hereof. In addition, the Company agrees to promptly provide the Colleton County Auditor, the Colleton County Assessor, the Colleton County Treasurer, and the Colleton County Economic Development Director, with a copy of all forms and returns made by the Company with DOR pursuant to this FILOT Agreement and the FILOT Act, including, but not limited to, the Company's annual PT-300. The Company acknowledges that the terms of the FILOT Act provide that to the extent requested, the Colleton County Auditor shall make such forms and returns available to the Hampton County Auditor. The Company agrees to provide the County with written notice of any failure to comply with the reporting requirements set forth in this Section.

SECTION 4.4. ***Assignment and Leasing.*** With the County's consent, any or all of the interest of the Company or any other Sponsor or Sponsor Affiliate in the Economic Development Property or this FILOT Agreement may be transferred or assigned by the Company or any other Sponsor or Sponsor Affiliate, as applicable, or any other assignee to any other Person; provided, however, that such consent is not required for financing-related transfers or any other transfers not requiring the consent of the County under the FILOT Act. The County hereby expressly consents to any transfer or assignment by the Company or any other Sponsor or Sponsor Affiliate, as applicable, of any or all of its interest in the Project and this FILOT Agreement to any Affiliates and to any transfer or assignment of any or all of such interest among such Affiliates. Except as otherwise required by the FILOT Act or this FILOT Agreement, a transaction or an event of sale, assignment, leasing, transfer of an interest herein, disposal, or replacement of all or part of the Economic Development Property shall not be a termination of this FILOT Agreement in whole or in part or a basis for changing the fee payments due under Section 12-44-50 of the FILOT Act. Notwithstanding any provision of this Section to the contrary, if and to the extent that the future consent of the County is required for a transfer, assignment, or other action referenced in this Section, the County hereby expressly agrees that such approval may be provided by a resolution adopted by County Council to indicate such consent.

SECTION 4.5. ***Transfers, Consolidation, Mergers, etc. Affecting Property Tax Exemption.*** The Company acknowledges that (a) transfers of this FILOT Agreement or (b) transfers, sales, or leasing of the Economic Development Property or (c) any consolidation or merger of the Company or any other Sponsor or Sponsor Affiliate or (d) any conveyance or transfer of all or substantially all of the Company's assets may cause the Economic Development Property to become ineligible for Negotiated FILOT Payments or result in penalties under the FILOT Act absent compliance by the Company with the provisions of the FILOT Act.

SECTION 4.6. ***Indemnification.***

(a) The Company and all other Sponsors and Sponsor Affiliates, jointly and severally, hereby release the County, including the members of the governing body of the County, and the employees, officers, and agents of the County (herein collectively referred to as the **"Indemnified Parties"**) from, agree that Indemnified Parties shall not be liable for, and agree to hold Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or

the use thereof, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party; provided, however, that such indemnifying parties shall only be liable in proportion with such Person's responsibility for the loss, injury, or death. The Company and all other Sponsors and Sponsor Affiliates, severally, but not jointly, further agree to indemnify and save harmless the Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of such Person in the performance of any covenant or agreement on the part of such Person to be performed pursuant to the terms of this FILOT Agreement or arising from any act or negligence of, or negligent failure to act where there is a duty to do so by, such Person, or any of its agents, contractors, servants, employees, or licensees, and from and against all cost, liability, and expenses incurred in any such claim or action or proceeding brought thereon.

(b) All covenants, stipulations, promises, agreements, and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and not of any member of the County Council or any officer, agent, servant, or employee of the County in his or her individual capacity, and, absent bad faith, no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, agent, servant, or employee of the County.

(c) Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this FILOT Agreement, any related agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by the Company, including all claims, liabilities, or losses arising with respect to the violation of any statutes or regulations pertaining to the foregoing; nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event each of the Company and all other Sponsors and Sponsor Affiliates, severally, but not jointly, shall indemnify and hold them harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity arising out of the same and all costs and expenses incurred with respect to any such claim or any action or proceeding brought thereon; provided, however, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnification Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to maintain the land upon which the Project is located within a Multi-County Park). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified Party is entitled to indemnification, such Indemnified Party shall promptly notify the Company and the Company shall have the sole right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in its sole discretion; provided the Company shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Company has the ability to, and does, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Company reasonably determines that a conflict of interest exists between the County and the Company, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Company shall be liable for the reasonable cost of such counsel.

(d) The indemnity specified in this Section shall be in addition to any heretofore extended by the Company or any other Sponsors or Sponsor Affiliates to any Indemnified Party and shall survive the termination of this FILOT Agreement with respect to liability arising out of any event or act occurring prior to such termination.

(e) All obligations of the Company and all other Sponsors and Sponsor Affiliates under this FILOT Agreement are several and not joint, and in no event shall a party have any liability or obligation with respect to the acts or omissions of any other party to this FILOT Agreement unless expressly provided herein or in any amendment or supplement hereto.

SECTION 4.7. ***Payment of Administrative Expenses.*** The Company agrees to reimburse the County from time to time for the reasonable and necessary expenses, including reasonable attorney's fees, incurred by the County with respect to the Project and the negotiation, approval, and administration of this FILOT Agreement within 45 days after receiving written notice from the County specifying the nature of such expenses and requesting the payment of the same. The County will charge the Company only reasonable out of pocket expenses in the administration of this FILOT Agreement.

SECTION 4.8. ***Sponsors and Sponsor Affiliates; Co-Investors.*** With the approval of the County, the Company may designate from time to time Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Code, which other Sponsors or Sponsor Affiliates shall be Persons who join with the Company and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this FILOT Agreement and who shall be Affiliates of the Company any other Sponsor or Sponsor Affiliate, or other Persons described in **Section 4.4** hereof. To the extent that a Sponsor or Sponsor Affiliate invests an amount equal to the Minimum Statutory Investment Requirement at the Project Site prior to the end of the Investment Period, the investment by such Sponsor or Sponsor Affiliate shall qualify for the Negotiated FILOT payable under **Section 5.1** hereof (subject to the other conditions set forth therein) in accordance with Section 12-44-30(19) of the Code. To the extent that the aggregate investment in Economic Development Property at the Project Site prior to the end of the Investment Period by the Company and all other Sponsors and Sponsor Affiliates and, to the extent permitted by the FILOT Act, Co-Investors exceeds $5,000,000, as provided in Section 12-44-30(19) of the Code, and to the extent permitted by the FILOT Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the Negotiated FILOT pursuant to **Section 5.1** of this FILOT Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invest amounts equal to the Minimum Statutory Investment Requirement. The Company shall provide the County and the DOR with written notice of any Sponsor or Sponsor Affiliate or Co-Investor designated pursuant to this **Section 4.8** within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate or Co-Investor has placed in service assets to be used in connection with the Project, all in accordance with Section 12-44-130(B) of the Code.

SECTION 4.9. ***Infrastructure Improvements.*** The Company agrees to provide or cause to be provided all funding for the costs of acquisition, construction, and installation of Infrastructure Improvements for which reimbursement is being provided by the Special Source

Credits.

ARTICLE V

NEGOTIATED FILOT PAYMENTS; SPECIAL SOURCE CREDITS

SECTION 5.1. ***Negotiated FILOT Payments.*** Pursuant to the provisions of the FILOT Act, the Parties agree that the Economic Development Property, whether owned by the Company or by any other Sponsor or Sponsor Affiliate, is exempt from *ad valorem* property taxes during the Exemption Period. The Company agrees to make the Negotiated FILOT Payments with respect to the Economic Development Property during the entire Exemption Period, said payments being due and payable at the times and places, and in the same manner and subject to the same penalty assessments as prescribed by the County or DOR for *ad valorem* taxes. Such amounts shall be calculated and payable as follows:

(a) The Company has agreed to make or cause to be made annual Negotiated FILOT Payments with respect to the Economic Development Property in an amount equal to the property taxes that would be due with respect to such property, if it were taxable, but using (i) an assessment ratio of 6% for all real and personal property; (ii) a millage rate of [360.69] mills, which is the lower of: (A) the legally levied cumulative property tax millage rate applicable to the Project Site on June 30 of the year preceding the calendar year in which this FILOT Agreement is executed; or (B) the legally levied cumulative property tax millage rate applicable to the Project Site on June 30 of the calendar year in which this FILOT Agreement is executed; and (iii) a fair market value for (A) any real property component of the Economic Development Property constructed or purchased in an arm's length transaction determined by DOR using the original income tax basis for South Carolina income tax purposes without regard to depreciation, otherwise the real property must be reported at the fair market value for *ad valorem* property taxes as determined by appraisal, with the fair market value estimate established for the first year of the Negotiated FILOT Payments with respect to such property remaining the fair market value of such real property until the Termination Date, and (B) the personal property component of the Economic Development Property determined by DOR using the original tax basis for South Carolina income tax purposes less depreciation allowable for property tax purposes, except that the Company is not entitled to extraordinary obsolescence, all in accordance with the FILOT Act.

(b) The Negotiated FILOT Payments shall be made on the basis that the Economic Development Property, if it were otherwise subject to *ad valorem* property taxes, would be allowed all applicable exemptions from those taxes, except for (i) the exemptions allowed under Section 3(g) of Article X of the South Carolina Constitution and Section 12-37-220(B)(32) and (34) of the Code and (ii) the local option sales tax credits.

(c) The Company agrees to make Negotiated FILOT Payments for each year during the term hereof beginning with the property tax year following the year the applicable Economic Development Property is first placed in service. The Negotiated FILOT Payments shall be made to the Colleton County Treasurer on the due dates which would otherwise be applicable for *ad valorem* property taxes for the Economic Development Property, with the first payment being due on the first date following the delivery of this FILOT Agreement when, but for this FILOT Agreement, such taxes would have been paid with respect to the Economic Development Property.

(d) Any Economic Development Property placed in service during the Investment Period shall be included in the calculation of payments pursuant to paragraphs (a), (b), and (c) above, for a period not exceeding 25 years following the year in which such property was placed in service.

(e) If the Company designates any other Sponsor or Sponsor Affiliates, as the same shall have been consented to by the County pursuant to **Section 4.8** hereof, the designating Company must notify the County in writing at the time of such designation as to whether such additional Sponsor or Sponsor Affiliate shall be liable for the Negotiated FILOT Payments due with respect to such entity's ownership of Economic Development Property hereunder. Unless and until such notification is received, the Company shall be primarily liable for all Negotiated FILOT Payments to the extent set forth hereinabove in this **Section 5.1**.

SECTION 5.2. ***Disposal of Property; Replacement Property.***

(a) In any instance where the Company in its sole discretion determines that any item or items of property included in the Project have become, in whole or in part, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such item (or such portion thereof as the Company shall determine) or items and sell, trade in, exchange or otherwise dispose of it or them (as a whole or in part) without any responsibility or accountability to the County therefore. The loss or removal from the Project of any property, or any portion thereof, as a result of fire or other casualty or by virtue of the exercise or threat of the power of condemnation or eminent domain shall be deemed to be a disposal of such property, or portion thereof, pursuant to this **Section 5.2**. Subject to the provisions of **Section 5.4** with regard to maintenance of statutory minimum qualifying investment and this **Section 5.2** with respect to Replacement Property, the Negotiated FILOT Payments required by **Section 5.1** hereof shall be reduced by the amount thereof applicable to any Economic Development Property, or part thereof, disposed of, or deemed disposed of, pursuant to this **Section 5.2**.

(b) The Company may, in its sole discretion, replace, renew, or acquire and install other property in substitution for, any or all property or portions thereof disposed of, or deemed disposed of, pursuant to **Section 5.2(a)** hereof to the fullest extent allowed by law. Any such property may, but need not, serve the same function, or be of the same utility or value, as the property being replaced.

SECTION 5.3. ***Special Source Credits.***

(a) As reimbursement for the Company's investment in Infrastructure Improvements related to the Project as provided for under Section 4-1-175 and Section 4-29-68 of the Code and subject to the requirements of the Special Source Act and **Section 5.4.** hereof, the County agrees that the Company, any other Sponsor or Sponsor Affiliate, and any Affiliate of the Company or any other Sponsor or Sponsor Affiliate, (each a **"Claiming Party"** and collectively referred to herein as the **"Claiming Parties"**), shall be entitled to a rebate of Special Source Credits against annual PILOT Payments and Negotiated FILOT Payments as follows:

(i) An annual Special Source Credit of the annual PILOT Payments and Negotiated FILOT payments due with respect to the Project in property

tax years one (1) through ten (10) of the term of the FILOT Agreement, as follows:

a. Special Source Credit of 50% for Year 1;
b. Special Source Credit of 80% for Year 2;
c. Special Source Credit of 70% for Year 3;
d. Special Source Credit of 60% for Year 4;
e. Special Source Credit of 50% for Year 5;
f. Special Source Credit of 40% for Year 6;
g. Special Source Credit of 30% for Year 7; and
h. Special Source Credit of 10% for Years 8 through 10.

Examples illustrating the calculation of the Special Source Credits are set forth on the attached Exhibit B.

(b) In accordance with the Special Source Act, such Special Source Credits shall not, in the aggregate, exceed the aggregate cost of the Infrastructure Improvements funded from time to time by the Company.

(c) Only upon payment of all Negotiated FILOT Payments, all PILOT Payments, and any *ad valorem* property taxes then due with respect to the Project or any other property of the Claiming Party located in Colleton County, shall the Claiming Party be entitled to the Special Source Credit for such year.

(d) To the extent required by Section 4-29-68(A)(2)(ii) of the Code, if the Company claims Special Source Credits as reimbursement for investment in personal property, including machinery and equipment, if such property is removed from the Project during the term of this FILOT Agreement, the amount of the PILOT Payments due from the Company on such personal property for the year in which the personal property was removed from the Project also shall be due for the two (2) years following such removal.

(e) THE SPECIAL SOURCE CREDITS SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY, BUT SHALL BE AN OBLIGATION PAYABLE SOLELY FROM THE NEGOTIATED FILOT PAYMENTS RECEIVED BY THE COUNTY HEREUNDER.

SECTION 5.3. ***Modification of Project.***

As long as no Event of Default exists hereunder, the Company and any Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(a) The Company and each other Co-Investor may, at its own expense, add to the Project any real and personal property as the Company or each other Co-Investor in its discretion deems useful or desirable; provided, however, that no additional real property may be added to the Economic Development Property without the consent of the County, which consent may be provided by resolution of the County Council.

(b) The Company and any other Co-Investor may, at any time in its discretion

by written notice to the County, remove any real or personal property from the Economic Development Property set forth in this FILOT Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to PILOT Payments.

SECTION 5.4. ***Failure to Achieve Minimum Investment [or Job Creation Requirement].***

(a) If the Company fails to acquire or cause to be acquired Economic Development Property at the Project Site at a cost which exceeds the Minimum Statutory Investment Requirement to qualify for standard Negotiated FILOT Payments under the FILOT Act, this FILOT Agreement shall automatically terminate in accordance with **Section 8.5** hereof as to such entities failing to meet the minimum investment level.

(b) If the aggregate investment in the Economic Development Property at the end of the Investment Period is less than $35,545,229, the Special Source Credits shall be reduced prospectively pro rata by the amount that the Investment is less than $35,545,229.

(c) In the event that any of the following events should occur, this FILOT Agreement shall automatically terminate and the County's obligation to provide the Special Source Credits shall immediately terminate: (i) the Project shall cease operations for a period longer than three (3) months; or (ii) full-time employment at that Project shall drop below 153 employees.

(d) Notwithstanding anything herein to the contrary, including without limitation the provisions of **Section 7.2** hereof, the remedies stated in this **Section 5.4** and in **Sections 5.5** and **8.5** hereof shall be the County's sole remedies for failure to meet any required investment level.

SECTION 5.5. ***Additional Provisions Regarding Special Source Credits.***

(a) If any of the following events shall occur, the County, in its sole discretion, may suspend payment of any remaining Special Source Credits to the Company until compliance, to the satisfaction of the County, with the requirements of paragraph (b) of this Section has occurred:

(i) The Company advises the County that it will not satisfy the investment, job creation, or payroll requirements set forth in **Section 4.1(a)** or **(b)** hereof; or

(ii) The Company is actively attempting to sell or lease the Project, or a substantial portion of the Project; or

(iii) The Company, if it is the tenant of the Project Site, is actively attempting to terminate the lease with respect to the Project Site; or

(iv) The County obtains information it deems to be reliable that representations of the Company regarding the investment, job creation, or payroll requirements set forth in **Section 4.1(a)** or **(b)** are inaccurate or misleading.

(b) Upon written notice from the County that one or more events described in paragraph (a) of this Section has occurred, the Company may provide to the County information,

including documentation, establishing that such event has not occurred or, that if it has occurred, is no longer continuing. If it is established to the County's reasonable satisfaction that such event has not, or no longer is, occurring, the County agrees to resume payment of the Special Source Credits as provided in **Section 5.3** hereof.

(c) In the event that it is not established to the County's reasonable satisfaction that such event has not, or no longer is, occurring, then by written notice to the Company the County may terminate its requirement to pay Special Source Credits under this FILOT Agreement. In such event the Company shall repay the County such amounts of Special Source Credits as the County has previously paid to the Company. Pending such payment, the amount of such Special Source Credits shall be deemed to be Negotiated FILOT Payments due to be paid under this FILOT Agreement pursuant to the FILOT Act and shall be secured by a lien, and shall be enforceable and collectible as *ad valorem* taxes as provided in the FILOT Act.

ARTICLE VI

SPECIAL COVENANTS

SECTION 6.1. ***Confidentiality.***

The Company acknowledges that the County is subject to the provisions of the South Carolina Freedom of Information Act. The County acknowledges that information the Company may hereafter provide to the County and which is clearly identified as "confidential and proprietary" ("Additional Information") may be deemed by the Company to be confidential and proprietary. To the extent that the Company identifies information in this FILOT Agreement or any of the attachments hereto or any Additional Information that it considers to be confidential or proprietary, the County agrees to maintain the confidentiality of such information and will, to the extent permitted by law (including, specifically, the South Carolina Freedom of Information Act), decline to honor any request for release of the information so designated to persons other than the Company and its designated officers and representatives. In the event that the County is required by law to disclose any confidential or proprietary information obtained from the Company to any third party, the County agrees to provide the Company with prompt advance notice of such requirement before making such disclosure. In the event an action at law or equity is brought against the County to require the disclosure of any Additional Information that the Company identified as confidential or proprietary, the County reserves the right to include the Company in such action, and the Company hereby agrees to bear the reasonable costs associated with defending the County in such action, including payment of any judgment against the County for attorneys' fees or other liabilities related to such action.

SECTION 6.2. ***Performance of Obligations by Related Entities.*** The County hereby acknowledges and agrees that any payment or other obligation of the Company contained herein may be performed by any Affiliate of the Company or by any entity which provides portions of the Project to the Company or any entity related to the Company through lease, license, or other arrangement, performance of such obligation by such other entities in accordance with the terms hereof shall satisfy such obligation and relieve the Company of such performance. Nothing herein shall be construed to release the Company of any of its obligations except to the extent of such payment or performance.

SECTION 6.3. ***Compliance with GASB 77.*** The Company agrees annually to prepare Form SC DOR PT-300G (Schedule G – Fee in Lieu of Tax Supplemental) with respect to the Project and the Special Source Credits, even if the Company is not required to file such form with the South Carolina Department of Revenue, and provide a copy to the County not later than June 30 of each year of the Term of this FILOT Agreement in order to assist the County in complying with Statement No. 77 of the Governmental Accounting Standards Board known as "GASB 77." The Company agrees further to cooperate with the County in providing reasonably requested information regarding the Project in order to assist the County in complying with GASB 77.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.1. ***Events of Default Defined.*** The occurrence of any one or more of the following events shall be an "Event of Default" under this FILOT Agreement by the Company or any other Sponsor or Sponsor Affiliate, or the County (the "**Defaulting Party**") but only with respect to such Defaulting Party's rights, duties, and obligations contained herein and under the FILOT Act:

(a) If default shall occur in the due and punctual payment of any Negotiated FILOT Payment or PILOT Payment; or

(b) If default shall occur in the due and punctual payment of any other amount required under this FILOT Agreement and such default shall continue for 30 days after written notice of default from the County; or

(c) If default shall occur in the observance or performance of any material covenant, condition, or agreement required herein to be observed or performed by the Company any other Sponsor, any Sponsor Affiliate, or the County (other than as referred to in **Section 7.1(a)** or **(b)** hereof), and such failure shall continue for a period of 30 days after written notice of default has been given to the Defaulting Party by the other Party; provided if by reason of Force Majeure the Defaulting Party is unable in whole or in part to carry out any such covenant, condition, or agreement or if it takes longer than 30 days to cure such default and the Defaulting Party is diligently attempting to cure such default, there shall be no Event of Default during such inability; or

(d) If any material representation or warranty on the part of the Company any other Sponsor, or any Sponsor Affiliate made in the Documents (including representations regarding the capital investment and employment maintenance and creation resulting from the Project), or in any report, certificate, financial or other statement furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

Anything herein to the contrary notwithstanding, failure to meet any investment requirements set forth herein shall not be deemed to be an Event of Default under this FILOT Agreement, but may

terminate certain benefits hereunder or obligate the Company to make certain additional payments to the County, all as set forth in **Section 5.3 and 5.4 and 8.5(a)** hereof.

SECTION 7.2. ***Remedies on Default by the Company.***

(a) Upon the occurrence of any Event of Default, the following remedies may be exercised only as to the Defaulting Party: (i) the County may terminate this FILOT Agreement by providing at least 30 days written notice to the Defaulting Party specifying the termination date, or (ii) the County may take whatever action at law or in equity may appear legally required or necessary or desirable to collect the payments and other amounts then due or to enforce performance and observance of any obligation, agreement, or covenant of the Defaulting Party, under the Documents.

(b) Although the Parties acknowledge that the Project is exempt from *ad valorem* property taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, exercise any remedies provided by general law (Title 12, Chapter 49; Title 12, Chapter 51; or any other statutory provision for tax collection of property taxes [the "**Tax Statute**"] and the FILOT Act) relating to the enforced collection of taxes, including an Event of Default under **Section 7.1(a)** hereof. The County's right to receive Negotiated FILOT Payments shall have a first priority lien status pursuant to Section 12-44-90 of the Code and Chapters 4 and 54 of Title 12 of the Code. The Company expressly acknowledges that in the event of its failure to make the required Negotiated FILOT Payments when due, that the County is only required to give notice thereof in accordance with the Tax Statute, and that no further notice is required hereunder in order to enforce the remedies set forth in this paragraph (b).

(c) Each right, power, and remedy of the County or the Company provided for in this FILOT Agreement shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this FILOT Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers, and remedies are sought to be enforced; and the exercise by the County or the Company of any one or more of the rights, powers, or remedies provided for in this FILOT Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or the Company of any or all such other rights, powers, or remedies.

SECTION 7.3. ***Remedies on Default by County.*** Upon the default of the County in the performance of any of its obligations hereunder, the Company or any other Sponsor or Sponsor Affiliate may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this FILOT Agreement, including without limitation a suit for *mandamus* or specific performance.

SECTION 7.4. ***No Additional Waiver Implied by One Waiver.*** In the event any warranty, covenant, or agreement contained in this FILOT Agreement should be breached by the Company or the County and thereafter waived by the other party to this FILOT Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

SECTION 7.5 ***Reimbursement of Legal Fees and Expenses and Other Expenses Upon Default.*** Upon the occurrence of an Event of Default hereunder by the Company or any Co-

Investor or Sponsor Affiliate, if the County employs attorneys or incurs other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

ARTICLE VIII

TERM OF FILOT AGREEMENT; TERMINATION

SECTION 8.1. ***Effective Date.*** This FILOT Agreement shall become effective on the date of execution and delivery of this FILOT Agreement as set forth on the signature page hereof.

SECTION 8.2. ***Fee Term.*** The applicable term of this FILOT Agreement shall be measured for each Stage beginning from the last day of the property tax year in which that Stage of the Economic Development Property is placed in service through the last day of the property tax year which is the twenty-fourth year following such year; provided, that the maximum term of this FILOT Agreement shall not be more than 25 years from the end of the last year of the Investment Period. This FILOT Agreement shall terminate with respect to the Economic Development Property or any Stage or part thereof upon the earlier to occur of (a) the Termination Date, (b) payment of the final instalment of Negotiated FILOT Payments pursuant to **Section 5.1** hereof, (c) the termination of this FILOT Agreement pursuant to **Section 8.3** hereof, or (d) termination of this FILOT Agreement pursuant to **Section 8.5** hereof.

SECTION 8.3. ***Options to Terminate.***

(a) From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days' notice, the Company or any other Sponsor or Sponsor Affiliate may terminate this FILOT Agreement with respect to such entity's portion of the Project or any portion thereof.

(b) The County may, but shall not be required to, terminate this FILOT Agreement in the event that the requirements of **Section 4.1(a)** and **(b)** hereof regarding the investment in Economic Development Property or employment created at the Project are not satisfied.

(c) Upon termination of all or part of this FILOT Agreement, the Company or such other Sponsor or Sponsor Affiliate, as applicable, will become liable for the payment of *ad valorem* property taxes on the Project, or such portion thereof as is so terminated from the exemption as Economic Development Property, in accordance with Code Section 12-44-140(A).

SECTION 8.4. ***Extension of Termination Date.*** Pursuant to Code Section 12-44-30(21), a Sponsor or Sponsor Affiliate may apply to the County prior to the Termination Date for an extension of the Termination Date for up to ten years. The County Council may approve an extension by resolution only upon a finding of substantial public benefit. The Sponsor or Sponsor Affiliate that applies for the extension must deliver a copy of the County Council

resolution approving the extension to the DOR within 30 days of the date the resolution is adopted.

SECTION 8.5. ***Automatic Termination of FILOT Agreement.***

(a) Pursuant to Code Section 12-44-140(B), the FILOT Agreement will automatically terminate if the Sponsor or Sponsor Affiliate fails to satisfy the Minimum Statutory Investment Requirement within the original Investment Period. If this FILOT Agreement is terminated pursuant to this Section, all Economic Development Property will be subject to *ad valorem* property taxes as of the Commencement Date. At the time of termination, the Sponsor or Sponsor Affiliate is obligated to pay to the County an additional fee equal to the difference between the total amount of property taxes that would have been paid by the Sponsor or Sponsor Affiliate had the Economic Development Property been taxable, taking into account exemptions from property taxes that would have been available to the Sponsor or Sponsor Affiliate, and the total amount of Negotiated FILOT Payments actually made by the Sponsor or Sponsor Affiliate. This additional amount is subject to interest as provided in Code Section 12-44-140(B).

(b) Pursuant to Code Section 12-44-140(C), the FILOT Agreement will automatically terminate with respect to any Sponsor or Sponsor Affiliate that has failed to maintain the Minimum Statutory Investment Requirement, without regard to depreciation. Upon termination of all or part of this FILOT Agreement pursuant to Code Section 12-44-140(C), the applicable Sponsor or Sponsor Affiliate will become liable for the payment of ad valorem property taxes on the Project, or such portion thereof as is so terminated from and after the date of termination, in accordance with Code Section 12-44-140(C).

(c) In the event the Company or any other Co-Investor removes real or personal property from the Economic Development Property pursuant to **Section 5.3(b)** hereof, this FILOT Agreement will terminate solely with respect to such removed property.

(d) This FILOT Agreement will automatically terminate as provided in **Section 5.4(a)** hereof.

(e) This FILOT Agreement will terminate in whole or in part in the event items of property included in the Project are removed from the Project and the FILOT is abated pursuant to **Section 5.2** hereof; provided, that such termination shall be effective only with respect to such portion of the Project so removed.

(f) This FILOT Agreement will automatically terminate in the event the transfer and assignment provisions of Section 12-44-120 of the Act are not satisfied.

(g) This FILOT Agreement will terminate in the event the provisions of **Section 7.2(a)** hereof are applied by the County following the expiration of any applicable cure periods.

ARTICLE IX

MISCELLANEOUS

SECTION 9.1. ***Notices.*** All notices, approvals, consents, requests, and other communications hereunder shall be in writing and may be delivered personally, or may be sent by certified mail, return receipt requested, to the following addresses, unless the Parties are subsequently notified of any change of address in accordance with this **Section 9.1**:

As to the Company:

Wayne Brothers, Inc.
101 Venture Way
Walterboro, South Carolina 29488

If to the County:

Colleton County
Attn.: County Administrator
109 Benson Street
Walterboro, South Carolina 29488

Colleton County Economic Development
Attn.: Executive Director
403 E. Washington Street, Suite B
Walterboro, South Carolina 29488

and a copy (which shall not constitute notice) to:

Sean Thornton, Esquire
Colleton County Attorney
Post Office Box 157
Walterboro, South Carolina 29488

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt and (2) by certified mail, 3 business days after delivery to the U.S. Postal authorities by the party serving notice.

SECTION 9.2. ***Binding Effect.*** This FILOT Agreement shall inure to the benefit of and shall be binding upon the County and the Company and their respective successors and assigns.

SECTION 9.3. ***Invalidity and Severability.*** In the event that the FILOT Act or the Negotiated FILOT Payments arrangement described in **Section 5.1** hereof is determined to be invalid in its entirety, the Parties hereby agree that except as the final judicial decision may otherwise require, the Company shall be entitled to retain any benefits received under or pursuant to this FILOT Agreement; otherwise, in the event any provision of this FILOT

Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this FILOT Agreement, unless that decision destroys the basis for the transaction, in which event the Parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company hereunder by either restructuring or reconstituting this FILOT Agreement under any then applicable law, including but not limited to Chapter 29 of Title 4 and Chapter 12 of Title 4 of the Code.

SECTION 9.4. ***Payments Due on Saturday, Sunday and Holidays.*** Whenever any payment to be made hereunder shall be stated to be due on a Saturday, a Sunday, or a legal or public holiday in the State of South Carolina, such payment shall be made on the secular or business day next succeeding such Saturday, Sunday, or holiday, as provided in Section 53-5-30 of the Code.

SECTION 9.5. ***Fiscal Year; Property Tax Year.*** If the Company's fiscal year changes in the future so as to cause a change in the Company's property tax year, the timing of the requirements set forth in this FILOT Agreement shall be revised accordingly, except that Negotiated FILOT Payments shall always be required to be made at the same time and subject to the same conditions, penalties, and enforcement, as with *ad valorem* taxes.

SECTION 9.6. ***Amendments, Changes and Modifications.*** This FILOT Agreement may not be amended, changed, modified, or altered except (a) with the written consent of the Parties and (b) in compliance with Code Section 12-44-40(K).

SECTION 9.7. ***Execution of Counterparts; Electronic Signatures.*** This FILOT Agreement may be executed in several counterparts, only one of which shall be an original; provided, however, that any action may be brought upon any counterpart of this FILOT Act or any counterpart of any document that is attached to this FILOT Agreement as an exhibit. This FILOT Agreement may be circulated for signature through electronic transmission, including, without limitation, facsimile and email, and all signatures so obtained and transmitted shall be deemed for all purposes under this FILOT Agreement to be original signatures and may conclusively be relied upon by any Party to this FILOT Agreement.

SECTION 9.8. ***Law Governing Construction of Agreement.*** The laws of the State of South Carolina shall govern the construction of this FILOT Agreement. All litigation arising under this FILOT Agreement shall be litigated only in a nonjury hearing in the Court of Common Pleas, Fourteenth Judicial Circuit, Walterboro, South Carolina.

SECTION 9.9. ***Headings.*** The headings of the articles and sections of this FILOT Agreement are inserted for convenience only and shall not be deemed to constitute a part of this FILOT Agreement.

SECTION 9.10. ***Further Assurance.*** From time to time, the Parties agrees to execute and deliver to the other Parties such additional instruments as any Party may reasonably request to effectuate the purposes of this FILOT Agreement.

SECTION 9.11. ***Prior Agreements Cancelled.*** This FILOT Agreement and the other Documents shall completely and fully supersede all other prior arrangements, both written and

oral, between the County and the Company relating to economic development incentives provided by the County for the Project. Neither the County nor the Company shall hereafter have any rights under such prior agreements but shall look solely to this FILOT Agreement and the other Documents for definitions and the determination of all of their respective rights, liabilities, and responsibilities relating to economic development incentives for the Project.

IN WITNESS WHEREOF, COLLETON COUNTY, SOUTH CAROLINA, and **WAYNE BROTHERS, INC.**, each pursuant to due authority, have duly executed and delivered this Fee-in-Lieu of Tax Agreement, on the date set forth below.

COLLETON COUNTY, SOUTH CAROLINA

Steven D. Murdaugh

Chairman, Colleton County Council

ATTEST:

Clerk to Colleton County Council

WAYNE BROTHERS, INC.

By: Brandon P Epps

Its: CFO

Date of Execution and Delivery: [June 11, 2025]

EXHIBIT A

Legal or Site Description for Project

EXHIBIT B

Examples of Special Source Credits

Example of Special Source Credits under Section 5.3(a)(i):

Appraised Value of Non-Qualifying Property x Assessment Ratio x Millage Rate = PILOT Payment

(a) $_____ x 10.5% x _____ = $_____

Appraised Value of Non-Qualifying Property x 6% Assessment Ratio x Millage Rate = $_____

(b) $_____ x 6% x _____ = $_____

Difference between (a) and (b) is Special Source Credit = $_____

PILOT Payment – Special Source Credit = Net PILOT Payment

(c) $_____ - $_____ = $_____

Example of Special Source Credits under Section 5.3(a)(ii):

(a) Net FILOT Payment = $_____

Appraised Value under §5.1(a) x 6% x _____ mils = Negotiated FILOT Payment

(b) $_____ x 6% x _____ = $_____

Net PILOT Payment + Negotiated FILOT Payment – Special Source Credit = $120,000

(c) $_____ + $_____ - $_____ = $120,000

(d) Special Source Credit under Section 5.3(a)(ii) = $_____

Taxpayers with Fee in Lieu of Tax agreements

Congratulations on your Fee in Lieu of tax (FILOT) agreement with your local county government! This negotiated agreement is between you and your county, but is monitored and administered through the SC Department of Revenue (SCDOR) as required by SC Code 4-12-30 and 4-29-67, 12-44. The terms of the fee are the result of your negotiations with the county and allowable statutes. We have compiled the following information to help you through the remaining FILOT process and the required filings, forms and deadlines.

Once the FILOT agreement is completed and signed by all parties involved, copies of the completed agreement and the PT 443 (Initial FILOT property tax form) are mailed to SCDOR c/o Manufacturing Section, Columbia SC 29214-0302. All the pertinent forms and instructions can be found on our website: dor.sc.gov under Business/Property/Fee In Lieu/Forms.

Initial Filing

You have three years from the date of the agreement to begin to place assets in service.. If you start to depreciate any assets before that time, you will need to file the Property tax form in the same year as your Income tax form that reports the depreciated property or when you place the property into service. The required return will be the PT 300 and the FILOT schedules will be either Schedule S or Schedule T depending on whether the company is a manufacturer (Schedule S) or a non- manufacturer (Schedule T). Once we receive your initial return, you will be assigned an SID # which is your account number with us. Any correspondence that you have with us should include that number.

Filing deadlines

The deadline to file the yearly return is four months from the end of the company's account closing period. For example, if the account closing period is 12/31/16, the filing deadline is 4/30/17 for the 2017 return. You are responsible for this filing each year. No pre-printed returns are mailed to you.
If you file your return late (after the four month deadline has passed) you will be assessed a 10% penalty in addition to the fee.

Investment Period

One of the negotiated terms of the FILOT is the length of the investment period. The period is stated within the FILOT agreement and is 5 years with some options for extensions. Pay close attention to the requirements for an extension, as the agreements usually require a written request from the company to the county before it is granted. They are not usually automatic.
Any investments made after the end of the investment period that are not replacement property will need to be filed on the regular taxable schedule of "A" for schedule S filers and "D" for schedule T filers.

Replacement Property

Another clause in the agreement refers to replacement property. This allows for the company that has passed the investment period, to replace assets that were acquired during the investment period and since scrapped or moved out of state, with new assets that can still be reported under the FILOT agreement. The new amount reported cannot exceed the amount that was scrapped or sold but is based on dollar amount and not the specific asset. This amount is removed from the original asset acquisition year(s) and included in the year of replacement. These replacement assets will not receive any additional years under the FILOT, but will enjoy the benefits under the remaining years of the agreement. If the replaced assets

exceed the original amount in the fee, the remaining amount would be reported on a regular taxable schedule of "A" for schedule S filers and "D" for schedule T filers.

Depreciation
The schedule "S" requires the reporting of the actual asset investment and the yearly depreciation is mandated by state statute based on the type of business. The schedule "T" allows for net book depreciation to be reported. Both of these have a 10% floor for total depreciation.

Fee terms
Terms vary but are typically 20 years but can be as long as 40 years for Super Fees. After 20 years, the oldest assets roll off the first year and should come off the FILOT schedule (S or T) and reported on the corresponding taxable schedule A or D. The second year investments come off the 21st year which allows each year of the investment to get the full 20 year benefit. Any replacement assets will roll off on the last year of investment. At that time the best avenue is to contact the SCDOR property analyst for your area and go over the procedure with them.

Transferring FILOT agreements
The existing FILOT agreement can be transferred to another company subject to an application to and approval by the county. This signed document will need to be sent to SCDOR. The new assignee will have to file assets historically just like the previous company. The new assignee inherits all the terms and conditions of the old agreement including the investment period which does not restart.

Please note that while the SCDOR administers the required filings, the county issues the actual bills and does all collections. Any Special Source Revenue Credits are deducted by the County on the County level

When in doubt or if you have any questions, call the Property analyst assigned to your county. They can usually answer any questions you might have.

Contact: Samuel Crowe 843-953-8389
Samuel.Crowe@dor.sc.gov
2 Southpark Circle, Suite 100
Charleston SC 29407