

CLARENDON COUNTY
ORDINANCE NO. 2023-06

AUTHORIZING, PURSUANT TO TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT BY AND BETWEEN CLARENDON COUNTY, SOUTH CAROLINA, AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT HAILSTORM, ACTING FOR ITSELF, ONE OR MORE CURRENT OR FUTURE AFFILIATES AND OTHER PROJECT COMPANIES (COLLECTIVELY, "COMPANY"); PROVIDING FOR A FEE-IN-LIEU OF AD VALOREM TAXES INCENTIVE; PROVIDING FOR A SPECIAL SOURCE REVENUE CREDIT; MODIFYING A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK OF CLARENDON AND SUMTER COUNTIES SO AS TO ENLARGE THE PARK; ACKNOWLEDGING AN ECONOMIC DEVELOPMENT GRANT; AND OTHER MATTERS.

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 10/5/23
Beulah A. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

WHEREAS, Clarendon County, South Carolina ("County") acting by and through County Council is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 ("FILOT Act"), Title 4, Chapter 1 and Title 4, Chapter 29 (collectively, "MCIP Act"), of the Code of Laws of South Carolina, 1976, as amended, (collectively, "Act"), to enter into fee agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, and through said agreements the industry would pay fees-in-lieu-of taxes for o qualified projects, through which powers the industrial development of the State of South Carolina ("State") and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the manpower, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally, and to provide infrastructure credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure enhancing the economic development of the County;

WHEREAS, pursuant to MCIP Act, the County and Sumter County entered into that certain "Master Agreement Governing the Sumter-Clarendon Industrial Park," dated December 31, 2010 (as amended, modified, and supplemented, collectively, "Park Agreement") whereby the County and Sumter County agreed to develop a joint county industrial or business park eligible to include property located in either the County or Sumter County ("Park");

WHEREAS, Section 1.01 of the Park Agreement establishes the procedure for enlargement of the boundaries of the Park to include additional property;

WHEREAS, a company identified for the time being as Project Hailstorm, acting for itself, one or more current or future affiliates and other project sponsors (collectively, "Company") proposes to invest in, or cause others to invest in, the establishment of a manufacturing facility in the County ("Project"), which the Company expects will result in the creation of approximately 200 new, full-time equivalent jobs and investment of not less than \$28,350,000 in taxable property;

WHEREAS, the County, having determined that an enlargement of the boundaries of the Park would promote economic development and thus provide additional employment and investment opportunities within the County and Sumter County, desires to enlarge the boundaries of the Park to include therein certain property, as described in greater detail on the attached Exhibit A and located in Clarendon County ("Project Hailstorm Property");

WHEREAS, pursuant to an Inducement Resolution dated as of July 10, 2023, the County identified the Project as a "project" as provided in the Act;

Beulah Roberts, Clerk-Clarendon S.C.
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WHEREAS, the Company has caused to be prepared and presented to this meeting the form of the Fee in Lieu of *Ad Valorem* Taxes Agreement, attached as Exhibit B, by and between the County and the Company (“Fee Agreement”), which provides for fee in lieu of tax payments utilizing a 6% assessment ratio for a period of 30 years for the Project or each component thereof placed in service during the investment period, and provides further for certain special source credits to be claimed by the Company against its payments of fees in lieu of tax payments with respect to the Project pursuant to Section 4-1-175 of the MCIP Act;

WHEREAS, it appears that the Fee Agreement, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended;

WHEREAS, to induce Project Hailstorm to locate in the County, the County Council understands that the Business Development Corporation of Clarendon County intends to enter into a grant agreement with Project Hailstorm, to provide for a grant of up to \$275,000 (“Grant Agreement”);

WHEREAS, the County Council intends this Ordinance to serve as an acknowledgement of the terms of that Grant Agreement;

WHEREAS, the County and the Clarendon Facilities Corporation (“Corporation”) previously entered an Installment Purchase and Use Agreement, effective December 14, 2022 (“Original IPUA”) in connection with the issuance of the Corporation’s \$15,265,000 Installment Purchase Revenue Bonds Series 2022 (“Series 2022 Bonds”);

WHEREAS, section 4.1(b) of the Original IPUA provides for County’s making “Base Payments,” as that term is described in the Original IPUA, to the Corporation as a means of retiring the Series 2022 Bonds;

WHEREAS, the County desires to amend the Original IPUA in various respects and to enter a “pledge agreement” to provide for the pledge and payment of the fee in lieu of tax payments related to the Project to the Corporation in partial satisfaction of the County’s obligation to make Base Payments;

WHEREAS, the substantially final form of (a) the “First Amendment to the Installment Purchase and Use Agreement” is attached to this Ordinance as Exhibit D, and incorporated herein by reference, and (b) the “Pledge Agreement” is attached to this Ordinance as Exhibit E, and incorporated herein by reference;

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

Section 1. *Statutory Findings.* Based solely on information provided to the County by the Company, it is hereby found, determined, and declared by the County Council, as follows:

(a) The Project will constitute a “project” as that term is referred to and defined in the Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act;

(b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based on all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made and the anticipated costs and benefits to the County;

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

(d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either;

(e) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and

public purposes;

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance; and

(g) The anticipated benefits of the Project to the public will be greater than the costs.

Section 2. *Authorization of Fee Agreement.* To promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State by assisting the Company to expand or locate a commercial facility in the State, the Fee Agreement is authorized, ratified, and approved.

Section 3. *Approval of Form of Fee Agreement.* The form of the Fee Agreement presented at this meeting, as attached as Exhibit B, is approved, and all of the terms are incorporated in this Ordinance by reference as if the Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council, and the Clerk to County Council are each authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name of and on behalf of the County, and to cause the executed Fee Agreement to be delivered to the Company. The Fee Agreement is to be in substantially the form now before this meeting, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, on the advice of Counsel to the County, such official's execution thereof to constitute conclusive evidence of such official's approval of any and all changes or revisions therein from the form of the Fee Agreement now before this meeting.

Section 4. *Enlargement of the Park.* The enlargement of the boundaries of the Park, and the granting of an extended period of time for inclusion of the Project Hailstorm Property in the Park, is authorized and approved.

Section 5. *Acknowledgement of County Grant Agreement.* The County Council acknowledges that the BDCCC intends to enter into a Grant Agreement with Project Hailstorm, the substantially final of which is attached as Exhibit C.

Section 6. *Administration of State Grant.* The Council authorizes the County Administrator to accept and administer one or more grants related to the Project to be provided by the Coordinating Council for Economic Development.

Section 7. *Pledge of Fee In Lieu of Taxes Payment; Execution of Documents.* The County pledges the fee in lieu of tax revenues to be received from the Company related to the Project to make the Base Payments, as and if provided in the manner and in the order so provided, in the Original IPUA, as so amended by the First Amendment to the Installment Purchase and Use Agreement, which is in substantially final form and attached as Exhibit D to this Ordinance, and the Pledge Agreement, which is in substantially final form and attached as Exhibit E to this Ordinance, and the form of each of these documents presented at this meeting is approved, and all of the terms are incorporated in this Ordinance by reference as if the documents were set out in this Ordinance in their entirety. The Chairman of the County Council, and the Clerk to County Council are each authorized, empowered, and directed to execute, acknowledge, and deliver the documents in the name of and on behalf of the County, and to cause the executed documents to be delivered to the Corporation and, as appropriate, to Regions Bank, as trustee, of the Series 2022 Bonds. The documents are to be in substantially the form now before this meeting, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, on the advice of Counsel to the County, such official's execution thereof to constitute conclusive evidence of such official's approval of any and all changes or revisions therein from the form of the documents now before this meeting.

Section 8. *Authorization for County Officials to Execute Documents.* The Chairman of the County Council, and the Clerk to County Council, for and on behalf of the County, are each authorized and directed to do any and all things reasonably necessary and prudent to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement and this Ordinance.

Section 9. *General Repealer.* All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, repealed, and this Ordinance shall take effect and be in full force from and after its passage and approval.

{SIGNATURE PAGE AND FIVE EXHIBITS FOLLOW}
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CLARENDON COUNTY, SOUTH CAROLINA



(SEAL)
ATTEST:

Norethy M. Lem
Clerk to Council

[Signature]
Chairman
Clarendon County Council

First Reading:	August 14, 2023
Second Reading:	September 11, 2023
Public Hearing:	September 11, 2023
Third Reading:	September 21, 2023