

SOUTH CAROLINA)
) **02-20 A RESOLUTION**
NEWBERRY COUNTY)

**COMMITTING TO NEGOTIATE A FEE-IN-LIEU OF *AD VALOREM* TAXES
AGREEMENT BETWEEN NEWBERRY COUNTY AND PROJECT URSA
INCLUDING THE PROVISION OF SPECIAL SOURCE REVENUE
CREDITS; AND OTHER MATTERS RELATED THERETO**

WHEREAS, Newberry County, South Carolina (“County”), acting by and through its County Council (“County Council”), is authorized under the Code of Laws of South Carolina, 1976, as amended (the “Code”) (i) to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in Title 12, Chapter 44, of the Code (“FILOT Act”), that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”) with respect to economic development property, as defined in the FILOT Act, all pursuant to the provisions of FILOT Act; (ii) to grant credits against FILOT Payments to qualifying companies to offset qualifying infrastructure related expenditures (“Special Source Revenue Credits”) pursuant to Sections 4-1-175, 4-29-68 and 12-44-70 of the Code; (iii) to make and execute contracts pursuant to Section 4-9-30 of the Code; and (iv) to enter into agreements with one or more contiguous counties for the creation and operation of one or more multi-county industrial parks (“MCIP”) pursuant to Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Code; and

WHEREAS, a company identified for the time being as “Project Ursa”, as Sponsor, along with one or more existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities and any Sponsor Affiliates that the Sponsor may designate and have the County approve in accordance with the Act (collectively, “Company”), contingent upon satisfaction of certain commitments made by and on behalf of the County, as set forth herein and to be further set forth in future agreements, and, to the extent allowed by law, plans to establish a solar generation facility in the County through the acquisition, lease, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment (“Project”), which will result in new investment in real and personal property estimated to be \$34,500,000 (“Investment”); and

WHEREAS, as an inducement to the Sponsor to locate the Project in the County, the Sponsor has requested that the County negotiate a fee-in-lieu of *ad valorem* taxes agreement (“Fee Agreement”), for the provision of FILOT Payments with respect to the portion of the Project which constitutes economic development property, as defined in the FILOT Act, and for the grant of Special Source Revenue Credits against those FILOT Payments; and

WHEREAS, the Sponsor has requested that the County negotiate the Fee Agreement to include the following particulars: (i) a term of 30 years with an approved 10 year extension thereto; (ii) an annual FILOT Payment in connection with all economic development property using a fixed assessment ratio of 6% and fixed millage rate in effect as of June 30, 2019; and (iii) an annual Special Source Revenue Credit against each FILOT Payment, the amount of which shall be determined annually that would be sufficient enough to result in an annual net FILOT Payment liability of \$71,000 (collectively, the “Requested Terms”); and

WHEREAS, the Sponsor has requested that the County include the Project in an MCIP for the duration of the term of the Fee Agreement; and

WHEREAS, the Sponsor has represented it would not consider locating the Project in the County but for the offer of economic development incentives.

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

Section 1. This Resolution is intended to qualify as an inducement resolution for the Project for purposes of the FILOT Act; therefore, qualifying expenditures made in connection with the Project before the date of this Resolution may qualify as economic development property as permitted under the FILOT Act.

Section 2. Based on information provided by the Sponsor, the County Council finds and determines the (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits, not otherwise adequately provided locally; (ii) the Project will not give rise to any pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either the County or any incorporated municipality; (iii) the purposes to be accomplished by the Project are property governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 3. County Council directs and authorizes County staff to negotiate the Fee Agreement to include the Requested Terms, under terms and conditions as shall be mutually agreeable to the County and the Sponsor. The final details and terms of the Fee Agreement will be approved and prescribed by subsequent ordinance of the County to be adopted in accordance with South Carolina law and the rules and procedures of the County.

Section 4. County Council agrees to consider subsequent Council action to place the Project in Multi-County Industrial Park for the term of the Fee Agreement.

Section 5. This Resolution is effective after its approval by the County Council.

*[Remainder Intentionally Blank
Signature Page Follows]*

RESOLVED: May 6, 2020

NEWBERRY COUNTY, SOUTH CAROLINA

Henry H. Livingston, III
Chair, Newberry County Council

(SEAL)
ATTEST:

Clerk to County Council