

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SALUDA )

ORDINANCE NO. 09-20

AN ORDINANCE AUTHORIZING AND APPROVING: (1) THE ESTABLISHMENT OF A JOINT COUNTY INDUSTRIAL AND BUSINESS PARK PURSUANT TO SECTION 4-1-170 OF THE SOUTH CAROLINA CODE OF LAWS 1976, AS AMENDED, TO BE KNOWN AS THE SALUDA COUNTY - PROJECT MAYSON JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (THE "PARK"), IN CONJUNCTION WITH EDGEFIELD COUNTY, SUCH PARK TO BE GEOGRAPHICALLY LOCATED IN SALUDA COUNTY; (2) THE EXECUTION AND DELIVERY OF A WRITTEN PARK AGREEMENT WITH EDGEFIELD COUNTY AS TO THE REQUIREMENT OF PAYMENTS OF FEE IN LIEU OF *AD VALOREM* TAXES WITH RESPECT TO PARK PROPERTY AND THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; (3) TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK WITHIN SALUDA COUNTY; AND (4) OTHER MATTERS RELATED THERETO.

WHEREAS, Saluda County, South Carolina ("Saluda County") and Edgefield County, South Carolina ("Edgefield County") (collectively, the "Counties"), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the "Park Act"), and particularly Section 4-1-170 thereof, propose to establish a joint county industrial and business park (the "Park"); and

WHEREAS, in order to promote economic development in Saluda County and surrounding areas, including Edgefield County, through improvements to the tax base of Saluda County and the provision of additional employment opportunities, Saluda County and Edgefield County have agreed to create the Park to include property presently anticipated to be now or hereafter owned and/or operated by Mayson Solar LLC, a limited liability company organized and existing under the laws of the State of Delaware and previously identified as Project Mayson, and/or one or more existing, or to be formed, affiliates or other related entities (the "Project Property"); and

WHEREAS, the Park shall be known as the Saluda County - Project Mayson Joint County Industrial and Business Park; and

WHEREAS, the Counties have agreed to the specific terms and conditions of such arrangement as set forth in that certain Agreement for Development of Joint County Industrial and Business Park (Saluda County - Project Mayson) to be entered into by the Counties as of such date as the Counties may agree (the "Park Agreement"); and

WHEREAS, the Counties now desire to establish the Park to include the Project Property.

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

**Section 1. Establishment of Saluda County - Project Mayson Joint County Industrial and Business Park; Approval of Park Agreement.**

(a) There is hereby authorized to be established in conjunction with Edgefield County a joint county industrial and business park to be known as the Saluda County - Project Mayson Joint County Industrial and Business Park, which is located on the land comprising the Project Property and more particularly described in the form of Park Agreement presented to this meeting. The form, provisions, terms and conditions of the Park Agreement now before this meeting and filed with the Clerk to Saluda County Council are hereby approved, and all of the provisions, terms and conditions thereof are hereby incorporated herein by reference as if the Park Agreement was set out in this Ordinance in its entirety.

(b) The Park Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of Saluda County, upon advice of counsel, thereunder and as shall be approved by the officials of Saluda County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Park Agreement now before this meeting.

(c) The Chairman of Saluda County Council, the Saluda County Director and the Clerk to Saluda County Council, for and on behalf of Saluda County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the establishment of the Park and the execution and delivery of the Park Agreement and the performance of all obligations of Saluda County under and pursuant to the Park Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

**Section 2. Payment of Fees in Lieu of Ad Valorem Taxes.** Owners and lessees of property located in the Park will pay a fee in lieu of *ad valorem* taxes as provided for in the Park Agreement. The fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Saluda County. That portion of such fee allocated pursuant to the Park Agreement to Edgefield County shall, upon receipt by the Treasurer of Saluda County, be paid to the Treasurer of Edgefield County in accordance with the terms of the Park Agreement. Payments of such fees will be made on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate as late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the Treasurer of Saluda County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

**Section 3. Distribution of Revenue.**

(a) Revenues generated from the Park through the payment of fees in lieu of *ad valorem* taxes to be retained by Saluda County pursuant to the Park Agreement shall be distributed within Saluda County in accordance with this subsection:

(1) First, unless Saluda County elects to pay or credit the same from only

those revenues which Saluda County would otherwise be entitled to receive as provided under item (3) below, to pay annual debt service on any special source revenue bonds issued by Saluda County pursuant to, or to be utilized as a special source revenue credit in the manner provided in, Section 4-1-175 of the Park Act;

(2) Second, at the option of Saluda County, to reimburse Saluda County for any expenses incurred by it in the administration, development, operation, maintenance and promotion of the Park or the industries and businesses located therein or for other economic development purposes of Saluda County; and

(3) Third, to those taxing entities in which the property is located, in the same manner and proportion that the millage levied for the taxing entities would be distributed if the property were taxable but without regard to exemptions otherwise available pursuant to Section 12-37-220, Code of Laws of South Carolina 1976, as amended, for that year.

(b) Notwithstanding any other provision of this Section:

(1) all taxing entities which overlap the applicable revenue generating properties within the Park shall receive at least some portion of the revenues generated from such properties; and

(2) all revenues receivable by a taxing entity in a fiscal year shall be allocated to operations and/or debt service as determined by the governing body of the taxing entity; provided, that any revenue which is to be allocated annually to a school district, shall, in accordance with the applicable law, be allocated by the Saluda County Auditor between such school district's debt service and such school district's operations in the same proportion as the millage levied for the respective purpose bears to the millage levied for both purposes when combined.

**Section 4. Governing Laws and Regulations.** The ordinances and regulations of Saluda County including, without limitation, those concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Saluda County unless the properties are within the boundaries of a municipality in which case such municipality's ordinances and regulations apply.

**Section 5. Law Enforcement and Other Services.** Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties is vested with the Sheriff's Department of Saluda County. If any of the Park properties are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of such municipality. Fire, sewer, water and EMS services will be provided by the service district or other political unit within whose jurisdiction the Park properties are located.

**Section 6. Savings Clause.** The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of

competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

**Section 7. General Repealer.** All orders, ordinances, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance]

DRAFT

Enacted and approved, in meeting duly assembled, this \_\_\_\_ day of \_\_\_\_\_, 2020.

SALUDA COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Raymond G. Strawbridge, Chairman, County  
Council, Saluda County, South Carolina

ATTEST:

\_\_\_\_\_  
Karen T. Whittle, Clerk to County Council  
Saluda County, South Carolina

First Reading: October 12, 2020  
Second Reading: November 9, 2020  
Public Hearing: November 9, 2020  
Third Reading: \_\_\_\_\_, 2020

STATE OF SOUTH CAROLINA )  
COUNTY OF SALUDA )  
COUNTY OF EDGEFIELD )

) AGREEMENT FOR DEVELOPMENT OF  
) JOINT COUNTY INDUSTRIAL AND  
) BUSINESS PARK (SALUDA COUNTY -  
) PROJECT MAYSON)  
)

**THIS AGREEMENT** for the development of a joint county industrial and business park to be located within Saluda County is made and entered into and to be effective as of \_\_\_\_\_, 20\_\_, by and between Saluda County, South Carolina (“Saluda County”) and Edgefield County, South Carolina (“Edgefield County”).

**RECITALS**

**WHEREAS**, pursuant to Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (the “Park Act”), and particularly Section 4-1-170 thereof, and Article VIII, Section 13(D) of the Constitution of the State of South Carolina (the “State”), as well as Ordinance No. \_\_\_\_ enacted by the County Council of Saluda County and Ordinance No. \_\_\_\_ enacted by the County Council of Edgefield County, Saluda County and Edgefield County have determined that, in order to further promote economic development and thus provide additional employment opportunities within both of said counties, there should be established a joint county industrial and business park to be located in Saluda County upon property presently anticipated to be now or hereafter owned and/or operated by Mayson Solar LLC, a limited liability company organized and existing under the laws of the State of Delaware and previously identified as Project Mayson, and/or one or more existing, or to be formed, affiliates or other related entities, and/or other assignees, and described in Exhibit A hereto (the “Park”), which Park shall be known as the Saluda County - Project Mayson Joint County Industrial and Business Park and shall be in addition to any joint county industrial and business parks previously established between Saluda County and Edgefield County; and

**WHEREAS**, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, but the owners or lessees of such property shall pay annual fees in an amount equal to that amount for which such owner or lessee would be otherwise liable except for such exemption; and

**WHEREAS**, Saluda County has agreed to accept responsibility for the costs of infrastructure, maintenance, management, promotional costs, and other appropriate costs associated with the establishment and operation of the Park as set forth herein.

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

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

2. Authorization. Article VIII, Section 13(D) of the State Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of such member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State provides by law a means by which the value of property located in such industrial or business park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability for school districts. Section 4-1-170 of the Park Act satisfies the conditions imposed by Article VIII, Section 13(D) of the State Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

3. Location of the Park.

(A) As of the date of this Agreement, the Park consists of property located in Saluda County, as further identified in Exhibit A hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within Saluda County. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinances of both Saluda County and Edgefield County. If any property proposed for inclusion in the Park, in whole or in part, is located within the boundaries of a municipality, then such municipality must give its consent prior to the inclusion of such property.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A, which shall contain a legal description of the boundaries of the Park, as enlarged or diminished, together with a copy of the ordinances of both Saluda County Council and Edgefield County Council pursuant to which such enlargement or diminution was authorized.

(C) Prior to the adoption by Saluda County Council and by Edgefield County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by Saluda County Council, as the county council of the county wherein the portion of the Park proposed to be enlarged or diminished is located. Notice of such public hearing shall be published in a newspaper of general circulation in Saluda County at least once and not less than fifteen (15) days prior to such public hearing. Notice of such public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon any owner and, if applicable, any lessee of any property which would be excluded from the Park by virtue of such diminution.

(D) Notwithstanding anything in this Agreement to the contrary, to the extent that either Saluda County or Edgefield County has outstanding contractual commitments to any owner or lessee of property located within the Park requiring inclusion of such property within a multi-county industrial or business park established pursuant to the Park Act and Article VIII, Section 13(D) of the State Constitution, Saluda County and Edgefield County shall not be entitled to remove such property from within the Park unless Saluda County shall first obtain the written consent of the owner or lessee of such property.

4. Fee in Lieu of Taxes. Property located in the Park shall be exempt from *ad valorem* taxation. The owners or lessees of any property located in the Park shall pay in

accordance with this Agreement an amount equivalent to the *ad valorem* property taxes or other in-lieu-of-payments that would have been due and payable but for the location of such property within the Park.

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

A. Saluda County	100%
B. Edgefield County	0%

6. Allocation of Park Revenues. Saluda County and Edgefield County shall receive an allocation of revenues generated by the Park through payment of fees in lieu of *ad valorem* property taxes in the following proportions:

A. Saluda County	99%
B. Edgefield County	1%

Any payment by Saluda County to Edgefield County of its allocable share of the fees in lieu of taxes from the Park shall be made not later than thirty (30) days from the end of the calendar quarter in which Saluda County receives such payment. In the event that the payment made by any owner or lessee of Park property is made upon protest or is otherwise in dispute, Saluda County shall not be obligated to pay to Edgefield County more than Edgefield County's share of the undisputed portion thereof until thirty (30) days after the final resolution of such protest or dispute.

7. Revenue Allocation Within Each County.

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* property taxes shall be distributed to Saluda County and to Edgefield County, as the case may be, according to the proportions established by Paragraph 6 of this Agreement. With respect to such revenues so allocable to Saluda County, such revenue shall be distributed within Saluda County in the manner provided by ordinance of the County Council of Saluda County; provided, that (i) all taxing entities which overlap the applicable revenue-generating properties within the Park shall receive at least some portion of the revenues generated from such properties, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of such taxing entity shall allocate the revenues received to operations and/or debt service of such entity; provided, that any revenue which is to be allocated annually to a school district, shall, in accordance with applicable law, be allocated by the Saluda County Auditor between such school district's debt service and such school district's operations in the same proportion as the millage levied for the respective purpose bears to the millage levied for both purposes when combined. Saluda County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the County Council of Saluda County.



(B) Such revenues allocable to Edgefield County pursuant to Section 6 of this Agreement shall be distributed as deemed appropriate by Edgefield County in the manner provided by ordinance of the County Council of Edgefield County.

8. Fee in Lieu of Taxes Pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina. It is hereby agreed that the entry heretofore or hereafter by Saluda County into any one or more fee in lieu of tax agreements pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina 1976, as amended (“Negotiated Fee-in Lieu of Tax Agreements”), with respect to Park property and the terms of such agreements shall be at the sole discretion of Saluda County.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to Saluda County and Edgefield County and to each of the taxing entities within Saluda County and Edgefield County shall be identical to any allocation of revenue received and retained by each of Saluda County and Edgefield County and by each of taxing entities within Saluda County and Edgefield County, pursuant to Sections 6 and 7 of this Agreement.

10. Records. Saluda County and Edgefield County each covenant and agree that, upon the request of Edgefield County, Saluda County will provide to Edgefield County copies of the records of the annual tax levy and copies of the actual tax bills for parcels of property included within the Park at the time of such tax levy, and will further provide copies to the Edgefield County Treasurer’s collection records for the taxes so imposed, all as such records become available in the normal course of Saluda County procedures. It is further agreed that Edgefield County shall not request such records from Saluda County more frequently than once annually, absent compelling justification to the contrary.

11. No Liability of Edgefield County. It is expressly understood and agreed that by entering into this Agreement, Edgefield County assumes no liability whatsoever with respect to this Agreement and the establishment or existence of the contemplated Park, and no recourse shall be had for any claim based upon any obligation, covenant or agreement contained herein against Edgefield County or any council member, director, officer, employee, or agent of Edgefield County.

12. South Carolina Law Controlling. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

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

14. Counterpart Execution. This Agreement may be executed in multiple counterparts.

15. Termination. Notwithstanding any provision of this Agreement to the contrary, Saluda County and Edgefield County agree that this Agreement may be terminated only upon approval of an ordinance to that effect by the county council of each of Saluda County and Edgefield County. Notwithstanding the foregoing, this Agreement may not be terminated to the extent that either Saluda County or Edgefield County has outstanding contractual commitments to any owner or lessee of property located in the Park requiring inclusion of such property within a multi-county industrial or business park established pursuant to the Park Act and Article VIII, Section 13(D) of the State Constitution, unless such county shall first obtain the written consent of such owner or lessee.

[Signature Pages Follow]

DRAFT

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement to be effective as of the day and the year first above written.

SALUDA COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Raymond G. Strawbridge, Chairman of County  
Council, Saluda County, South Carolina

[SEAL]

Attest:

By: \_\_\_\_\_  
Karen T. Whittle, Clerk to County Council  
Saluda County, South Carolina

EDGEFIELD COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Scott Cooper, Chairman, County Council,  
Edgefield County, South Carolina

[SEAL]

Attest:

By: \_\_\_\_\_  
Jennifer Gilley, Clerk to County Council  
Edgefield County, South Carolina

**EXHIBIT A**  
**LAND DESCRIPTION**

