

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR NEWBERRY COUNTY
ORDINANCE NO. 09-01-2023

FILED
NEWBERRY COUNTY

2023 OCT -5 AM 8:49

ELIZABETH P FOLK
CLERK OF COURT

AUTHORIZING THE CREATION OF A CAPITAL PROJECTS ACCOUNT; AUTHORIZING AN AMENDMENT TO THE MASTER AGREEMENT GOVERNING THE GREENWOOD-NEWBERRY INDUSTRIAL PARK; AUTHORIZING THE COUNTY TO RETAIN CERTAIN FEE-IN-LIEU OF TAX REVENUES IN ORDER TO FUND THE CAPITAL PROJECTS ACCOUNT; AND OTHER RELATED MATTERS.

WHEREAS, Newberry County (“Newberry”), a public body corporate and politic under the laws of the State of South Carolina, is 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 (collectively, the “Act”), to (i) create multi-county industrial parks in partnership with counties having contiguous borders with Newberry; and (ii) include the property of eligible companies within such multi-county industrial parks, which inclusion under the terms of the Act makes such property exempt from *ad valorem* property taxes, and changes the character of the annual receipts from such property to fees-in-lieu of ad valorem property taxes in an amount equivalent to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multi-county industrial parks (“Fee Payments”);

WHEREAS, Newberry and Greenwood County, South Carolina (“Greenwood”) have previously developed a multi-county industrial park (“Park”) and entered into the Master Agreement Governing the Greenwood-Newberry Industrial Park, dated December 31, 2012, which governs the operation of the Park (“Park Agreement”);

WHEREAS, pursuant to the Act and Park Agreement, Newberry is authorized to specify the manner in which Fee Payments (i) received by Newberry from property located in Greenwood or (ii) retained by Newberry from property located in Newberry are distributed to each of the taxing entities within Newberry;

WHEREAS, Newberry desires to create a fund in which Newberry’s portion of certain fee-in-lieu of ad valorem property tax payments from properties in the Park (“Revenues”) will be deposited (the “Capital Projects Account”);

WHEREAS, Newberry desires to amend the Park Agreement to modify the method of distributing the Revenues as authorized by the Park Agreement; and

WHEREAS, the Newberry County Council, the governing body of Newberry (the “County Council”) shall be authorized to use the Capital Projects Account, in its sole discretion, for the purposes set forth in the Amendment (as defined below).

NOW THEREFORE, THE COUNTY COUNCIL OF NEWBERRY COUNTY, SOUTH CAROLINA, ORDAINS:

Section 1. Creation of the Capital Projects Account. County Council hereby creates a Capital Projects Account in which to deposit certain Revenues in accordance with the Amendment. The Capital Projects Account shall be maintained at a bank chosen by the County Council. Newberry may use the Capital Projects Account, in its discretion, to: (i) acquire, construct, maintain, repair, renovate, or upfit capital

projects in Newberry, including, but not limited to parks and recreational facilities, airports, roads and bridges, public safety facilities and equipment, public works facilities and equipment, speculative buildings, multicounty park infrastructure, water and sewer facilities, solid waste disposal facilities and equipment, and any other Newberry-owned real property, (ii) make expenditures necessary for any economic development project in Newberry or provide grants to any business entity that intends to locate an economic development project in Newberry or (iii) make any other expenditure in the discretion of Newberry County Council. ((i) – (iii) are collectively “Capital Projects”). Capital Projects shall be identified by resolution of Newberry County Council and may include those that are part of Newberry’s long-term capital improvement plan, or those that Newberry determines will have a direct benefit to Newberry’s residents. Funds in the Capital Improvement Account may pay all of the costs of a Capital Project or may be used to supplement the costs of a Capital Project

Section 2. *Amendment Authorized.* Council authorizes an amendment to the Park Agreement, as set forth more fully in the Amendment to Master Agreement Governing the Greenwood-Newberry Industrial Park attached as Exhibit A (“Amendment”), to ratify and approve the retention of Revenues by Newberry. The County Council Chair, or the Vice Chair in the event the Chair is absent, and the Clerk to the County Council are hereby authorized to execute the Amendment. The Chair is further directed to deliver the Amendment to Greenwood.

Section 3. *Further Assurances.* The County Administrator (and his designated appointees) is authorized and directed, in the name of and on behalf of Newberry, to take whatever further actions and execute whatever further documents as the County Administrator (and his designated appointees) deems to be reasonably necessary and prudent to effect the intent of this Ordinance.


Section 4. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

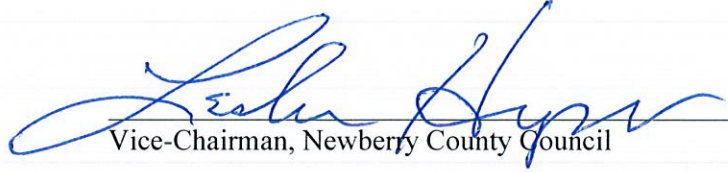
Section 5. *General Repealer.* Any prior ordinance, resolution or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

This Ordinance is effective after its third reading and public hearing.

[Signature Page Follows]

NEWBERRY COUNTY, SOUTH CAROLINA




Vice-Chairman, Newberry County Council

(SEAL)
ATTEST:


Clerk to Newberry County Council

First Reading: 09-06-2023
Second Reading: 09-20-2023
Public Hearing: 09-20-2023
Third Reading: 10-04-2023

EXHIBIT A
FORM OF AMENDMENT