

Sponsor(s)	: County Council
Adopted	: June 6, 2023
Committee Referral	: N/A
Committee Consideration Date	: N/A
Committee Recommendation	: N/A

**RESOLUTION NO. 23-R-35**

**COUNCIL-ADMINISTRATOR FORM OF GOVERNMENT FOR COLLETON COUNTY**

**[A RESOLUTION AUTHORIZING, UNDER CERTAIN CONDITIONS, THE EXECUTION AND DELIVERY BY COLLETON COUNTY, SOUTH CAROLINA OF A FEE IN LIEU OF TAX AGREEMENT WITH A COMPANY KNOWN TO THE COUNTY AND IDENTIFIED FOR THE TIME BEING AS “PROJECT WREN” WITH RESPECT TO AN INDUSTRIAL PROJECT IN THE COUNTY WHEREBY THE PROJECT WOULD BE SUBJECT TO PAYMENT OF CERTAIN FEES IN LIEU OF TAXES, AND WHEREBY “PROJECT WREN” WILL BE PROVIDED CERTAIN CREDITS AGAINST FEE PAYMENTS IN REIMBURSEMENT OF INVESTMENT IN RELATED QUALIFIED INFRASTRUCTURE; AND OTHER MATTERS RELATED 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 (the “FILOT Act”), and Title 4, Chapter 1 (the “Multi-County Park Act”), Code of Laws of South Carolina 1976, as amended (the “Code”), to enter into agreements with industry, to offer certain privileges, benefits and incentives as inducements for economic development within the County; to acquire, or cause to be acquired, properties as may be defined as “projects” in the Act and to enter agreements with the business or industry to facilitate the construction, operation, maintenance and improvement of such projects; to enter into or allow financing agreements with respect to such projects; and to accept any grants for such projects through which powers the industrial and business development of the State will be promoted, whereby the industry would pay fees in lieu of taxes with respect to qualified industrial projects; to provide credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure serving the County or such projects, including improved or unimproved real estate and personal property, including machinery and equipment, used in the manufacturing or industrial enterprise (collectively, “Infrastructure”); through all such powers, the industrial development of the State of South Carolina (the “State”) will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the workforce, products and resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

**WHEREAS**, “Project Wren” (the “Company”) has requested that the County assist in the acquisition, construction and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a new facility in the County for the storage of energy (collectively, the “Project”) that are expected to result in investment by the Company in the Project of at least \$150,000,000 (the “Investment”) in non-exempt investment by December 31 of the fifth year after the first year which any portion of the Project is first placed in service; and

**WHEREAS**, the Company has requested that the County enter into a fee in lieu of tax agreement with the Company, which agreement would provide the Company with certain fee in lieu of tax incentives with respect to the Project; and

**WHEREAS**, the County has determined on the basis of the information supplied to it by the Company that the Project would be a “project” and “economic development property” as such terms are defined in the FILOT Act and that the Project would serve the purposes of the FILOT Act; and

**WHEREAS**, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County intends to place the site on which the Project will be located in a multi-county industrial and business park (a “Park”) established by the County pursuant to a qualifying agreement with an adjoining South Carolina county (the “Park Agreement”); and

**WHEREAS**, the County has determined and found, on the basis of representations of the Company, that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; that the Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either; that 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; that the inducement of the location of the Project within the County and State is of paramount importance; and that the benefits of the Project will be greater than the costs.

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

Section 1. (a) The adoption of this Resolution is an official action by the County Council to identify, reflect, and induce the Project under the FILOT Act. For purposes of the FILOT Act, this Resolution is an “Inducement Resolution.” For purposes of Section 12-44-110 of the FILOT Act, this Resolution constitutes preliminary approval by the County prior to the execution of a fee agreement (the “Fee Agreement”). If the Company decides to locate the Project in Colleton County, the County Council hereby commits to providing development incentives for the Project through the payment by the Company of fees in lieu of taxes with respect to the Project pursuant to Section 12-44-40 of the Act, including an assessment ratio of six percent (6%) for Project property, a five (5) year investment period and a thirty (30) year term. The millage rate for Project property shall be fixed for the duration of the Fee Agreement at the cumulative property tax millage rate levied on behalf of all taxing entities within which the Project is located as determined by S.C. Code Section 12-44-50(A)(d).

(b) Pursuant to the Multi-County Park Act, the County Council will use its commercially reasonable efforts to cause the site of the Project to be located in a Park. Pursuant to Section 4-1-175 of the Multi-County Park Act, and for the purpose of providing reimbursement to the Company for certain of its investment in qualified Infrastructure, the County Council commits to provide for a twenty-five (25) percent special source revenue credit against each of the Company’s payments in lieu of taxes under the Fee Agreement; provided, however, in the event the Company shall fail to make the full amount of the Investment during the Investment Period, as may be extended at the discretion of County Council, then such special source revenue credit shall be reduced pro rata by such amount.

Section 2. The form, terms and provisions of the Fee Agreement shall be prescribed and authorized by subsequent ordinance(s) of the County Council, which, to the extent not prohibited by law, shall be consistent with the terms of this Resolution. The County Council’s commitment to place the Project land in a multi-county park is subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County. The County agrees to

provide the incentives set forth in this Resolution as long as the Company agrees to the payment of all costs and expenses, including legal fees, incurred by the County due to the grant of the incentives set forth herein for the Project. The County Council must approve the Fee Agreement, and any other agreement or document contemplated by this Resolution, in accordance with South Carolina law and the rules and procedures of the County Council, in order for the Fee Agreement and such other agreements or documents to be legally effective.

Section 3. All orders, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Council.

Section 4. The authorization of the execution and delivery of the documents related to the Fee Agreement and all other related documents or obligations of the County is subject to the compliance by the County Council with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

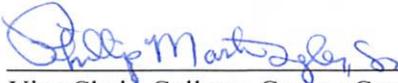
Section 5. It is the intention of the County Council that this resolution shall constitute an inducement resolution with respect to the Project, within the meaning of the FILOT Act.

*[Signature Page Follows]*

**DONE** in a meeting duly assembled this [ 6<sup>th</sup> day of June, 2023].

**COLLETON COUNTY, SOUTH  
CAROLINA**

(SEAL)

By:   
Vice Chair, Colleton County Council

ATTEST:

By:   
Clerk, Colleton County Council

COUNCIL VOTE: UNANIMOUS  
OPPOSED: